Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016

Explanatory Notes

Short title

The short title of the Bill is the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016.

Policy objectives and the reasons for them

The objectives of the Bill are to:
1. provide victims of domestic and family violence with access to earlier and more tailored protection
2. ensure victim safety is at the forefront of the justice response to domestic and family violence
3. require police to consider how immediate and effective protection can be provided to victims pending a court's consideration of an application for a domestic violence order (DVO)
4. provide for the automatic mutual recognition of DVOs made in other Australian jurisdictions through the National Domestic Violence Order Scheme (NDVOS), and
5. hold perpetrators of violence more accountable and encourage them to change their behaviour.

On 28 February 2015, the Special Taskforce on Domestic and Family Violence in Queensland (the Taskforce) released its report, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland* (the Taskforce Report).

The Taskforce Report recommended a number of specific amendments to the *Domestic and Family Violence Protection Act 2012* (the Act). The majority of these were implemented via the *Criminal Law (Domestic Violence) Amendment Act 2015* and the *Domestic and Family Violence Protection and Another Act Amendment Act 2015*. The Taskforce also recommended specific amendments to:
- introduce enabling legislation to allow information sharing between government and non-government agencies within integrated service responses, with appropriate safeguards, including protection for the sharing of information without consent if a risk assessment indicates it is for the purpose of protecting the safety of a victim or their immediate family (recommendation 78), and
- require courts to consider family law orders when making a DVO (recommendation 99).

Recommendation 140 of the Taskforce Report was for an overarching review of the Act to ensure it provides a cohesive legislative framework that incorporates the reforms recommended by the Taskforce. In making this recommendation, the Taskforce identified specific issues for consideration in the review, including the current provisions and operation of police protection notices (PPNs) and the application of provisions relating to voluntary intervention orders (VIOs).

The Taskforce Report also recommended that Queensland continue its commitment to:

- develop and implement the NDVOS to achieve automatic mutual recognition and enforcement of domestic violence related orders across jurisdictions (recommendation 90), and
- support CrimTrac to develop a National Domestic Violence Order Information Sharing System (NDVOISS) (recommendation 112).

The Queensland Government response accepted these recommendations. In particular, the Government committed to:

- exploring current barriers to information sharing across agencies and addressing barriers through a legislative response as needed
- actively participating in the development and implementation of the NDVOS, and
- reviewing the Act to ensure a cohesive legislative framework for domestic and family violence in Queensland.

The Bill implements key outcomes of the review of the Act in relation to the issues the Taskforce specifically identified for consideration and implements the remaining recommendations of the Taskforce for changes to the Act. It also implements the Taskforce recommendations relating to information sharing and will enable Queensland to participate in the NDVOS.

The NDVOS consists of two components:

1. a legal framework so that DVOs can be recognised and enforced nationally without the current need for manual registration, and
2. a supporting technical capability (the NDVOISS) for sharing DVO information across jurisdictions.

On 5 November 2015, the Law, Crime and Community Safety Council endorsed model legislation to underpin the NDVOS.

At its meeting on 11 December 2015, the Council of Australian Governments (COAG) endorsed the Law, Crime and Community Safety Council decision and agreed to:

- introduce the NDVOS so DVOs issued in one state will be recognised in all others, with every jurisdiction committing to introduce laws to give effect to this in the first half of 2016
- develop a comprehensive NDVOISS that police and courts will be able to use for evidentiary purposes or to enforce DVOs, noting this will take several years to fully implement, and
- in the short term, establish an interim information sharing system that will provide police and courts with information on all DVOs that have been issued.

Achievement of policy objectives

The Bill will achieve its objectives of improving protection for victims and enhancing the justice response by:

- requiring police to consider what action to take to provide victims with immediate and effective protection from domestic and family violence and expanding the protection which can be provided by PPNs
- clarifying that the court may make a DVO when a victim has been threatened or 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 a person to be directed to move to another place to issue, serve, or explain a PPN
- requiring courts to consider whether additional DVO conditions (beyond the standard condition that the respondent be of good behaviour and not commit domestic violence) are necessary or desirable to better tailor protection for the victim or another named person
- requiring courts to focus on the protection required by a victim in determining the appropriate duration of a protection order (to be a minimum of five years, unless a court is satisfied that there are reasons why a shorter order should be made)
- requiring courts to consider any existing family law order they are aware of and whether it needs to be varied or suspended if it is inconsistent with the protection needed by the victim or their family
- clarifying that a court must consider non-compliance, and may consider compliance, with a VIO in making or varying an order, but compliance with a VIO must not be the sole reason a court decides not to make or vary a protection order (PO)
- introducing a legislative framework to facilitate information sharing between key government and non-government entities for the purpose of enabling risk assessment as well as responding to serious domestic violence threats
- enabling the Queensland Police Service to refer victims and perpetrators to specialist domestic and family violence (DFV) 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 Bill will achieve its objectives of increasing perpetrator accountability and encouraging behaviour change by:

- increasing the maximum penalty for breaches of PPNs and release conditions to achieve consistency with the penalty for breaching DVOs
- changing the name of VIOs to 'intervention orders' to reflect that while a respondent must agree to an intervention order being made, once made, it is not voluntary for the respondent to comply with the order as it is an order of the court, and
- allowing the Office of the Director of Public Prosecution and the Queensland Police Service to obtain copies of DVO court documents that are relevant to a related criminal prosecution and enabling courts to provide documents to police where they are relevant to a related police investigation.

The Bill also makes a minor and technical amendment to the Act to require a further statutory review of the Act five years after commencement of the Bill.

Requiring police to consider the provision of immediate protection and expanding the operation of police protection notices

PPNs were one of the reforms introduced by the Act to enable police officers to provide quick and effective responses for victims of domestic and family violence. Under Part 4, Division 2 of the Act, PPNs:

- can be issued where, amongst other things, a police officer is at the same location as the respondent and reasonably believes a notice is necessary or desirable to protect the aggrieved from domestic violence
- can protect the aggrieved person, but not their children, relatives or associates
- must contain the standard conditions that the respondent be of good behaviour towards the aggrieved person
- may also include a 24-hour 'cool-down' condition that excludes the respondent from the family home or prevents them contacting the aggrieved person, and
- are also an application for a court issued PO, with a court hearing occurring within five business days in most courts and within 28 days in some courts in rural and remote areas.

Part 4, Division 3 of the Act provides that where police take a respondent into custody because they have committed domestic violence and there is a danger of personal injury or property damage, police must release them on the conditions they consider necessary in the circumstances and desirable in the interests of the aggrieved, any named person or the respondent if a DVO is not obtained during the detention period.

The Taskforce noted that the limited protection offered by PPNs and restrictions on their use discourages police officers from using them. It recommended considering the operation of PPNs to enhance victim safety and perpetrator accountability, while providing efficiencies for police and courts.

The Bill requires police to consider what action should be taken following an investigation and expands the protection police are able to provide by enabling PPNs to protect a victim's children, relatives and associates. The Bill also gives police the power to include additional conditions in PPNs. These are conditions that exclude a perpetrator from the family home and/or prevent them contacting the victim or their children (unless there is a family law order in place permitting contact) until a court hearing.

The Bill also amends the *Weapons Act 1990* to provide that any weapons licence held by a respondent named in a PPN is suspended for the duration of the notice — in the same way that licenses are suspended when courts issue temporary protection orders (TPO). Respondents will also be required to surrender their weapon in the same way as when a TPO is made. This approach will also be adopted for release conditions.

The Bill simplifies the current range of police responses by expanding the role of PPNs and gives police more flexibility to issue and serve notices. Under the Bill, police will no longer have to detain a respondent before being able to impose more protective conditions. The Bill also removes the requirement that an officer be in the same location as the respondent to issue a PPN and allows police to issue a notice where, for example, the respondent has fled the scene before police arrive. However, police will be required to make reasonable efforts to speak to the respondent before issuing a PPN.

The Bill preserves current safeguards and court oversight of PPNs. Senior officers will

continue to approve the issuing of PPNs and/or the conditions in them, and notices will continue to commence a court application for a DVO.

Police will continue to be prevented from issuing cross-notices or issuing a PPN where a notice has already been issued or DVO has been made involving the same parties. In these circumstances, police will use existing processes under the Act to provide appropriate protection and in cases where people who are not already a respondent to a notice or order are detained, police will continue to be required to issue release conditions to protect victims until these matters can be considered by a court.

Expanded power to direct a person to move to and remain at a place

Under section 134 of the Act, a police officer who intends to issue a PPN, serve an application for a PO, serve a DVO, or explain the conditions in a DVO can direct a respondent to remain at an appropriate place so the officer can carry out those activities. It is an offence for the respondent to fail to comply with the direction.

Clause 40 of the Bill expands the current power to allow police to direct a person to move to and remain at another appropriate place so an officer can serve an application for a PO, serve a DVO, or issue or serve a PPN. The additional power will assist police to de-escalate domestic violence situations by separating the parties, enhance opportunities for respondents' to understand the documents that are being served on them and help police to reinforce the seriousness of the violence that has occurred.

Grounds for a DVO

Under section 37(1)(b) of the Act victims can be protected by a DVO if a court is satisfied that, amongst other things, the respondent has committed domestic violence against them.

The current definition of domestic violence in section 8 of the Act is broad. It includes behaviour that is threatening or coercive or that in any other way is controlling or dominating, causing a person to fear for their safety or wellbeing or that of someone else. However, the use of the phrase 'has committed domestic violence' can create a misperception that an act of physical violence must occur before victims can obtain a DVO.

The Bill clarifies that courts can issue DVOs on basis that victims have been threatened or have a fear that the respondent will commit domestic violence, by inserting a note referring to the definition of domestic violence into section 37 of the Act.

Tailoring conditions in DVOs

All DVOs include standard conditions that the respondent must be of good behaviour towards the aggrieved person and any named person, and must not commit domestic violence. Courts have discretion to impose other conditions that are necessary and desirable in the interests of the aggrieved, any named person, or the respondent.

To achieve consistency with the test for making DVOs and improve victims' ability to obtain tailored protection, clause 7 of the Bill:

- explicitly requires courts to consider whether additional, more specific conditions should be included in the order, and
- requires courts to consider what other conditions are necessary or desirable to protect the

aggrieved person or any named person from domestic violence.

Duration of protection orders

Under section 97, POs can last for up to two years, unless courts are satisfied there are 'special reasons' for imposing a longer duration.

Stakeholders raised concerns that, often, two years does not provide victims with adequate protection and courts rarely make longer orders. The Taskforce identified that the review of the Act should consider clarifying the circumstances in which a PO may be extended beyond two years.

Clause 17 of the Bill broadens courts' discretion to determine the appropriate length of POs and clarifies that the paramount principle in determining the appropriate duration of orders is the safety, protection and wellbeing of the victim/s. If a court does not specify the duration of a PO, the order will remain in force for five years from when it is made. The clause also provides that courts can only make orders that last for less than five years if satisfied there are reasons for doing so.

Clause 16 of the Bill provides that where there is a variation application to reduce the length of an order, the court may only make the variation if the court considers that there are reasons for doing so. The paramount principle in determining such applications will continue to be the safety, protection and wellbeing of the aggrieved, and any children or named person.

Consideration of family law orders

Courts currently have broad discretion to consider family law orders that they are aware of and to consider using their powers under the *Family Law Act 1975* (Cth) to modify or suspend the order in light of the proposed conditions in a DVO.

The Taskforce noted that victims are often faced with DVOs and family law orders that have inconsistent terms dealing with contact between parents and children. The Taskforce heard that this may be because magistrates are reluctant to use their powers to revive, vary, discharge or suspend a family law order allowing contact between a respondent and child that may be restricted under the proposed DVO. The Taskforce recommended that when making DVOs, courts must consider any existing family law order.

The Bill strengthens the current obligation by requiring courts to always consider any family law order that they are aware of and to always consider whether to exercise their powers to resolve any inconsistency between the order and the proposed DVO.

Respondents' non-compliance with voluntary intervention orders

The Act enables courts to make VIOs when a respondent agrees to attend an approved intervention program or counselling. Courts can currently consider a respondent's compliance with the order in deciding whether to make a PO, and must consider it in deciding whether to vary a DVO.

The Taskforce identified issues with the operation of VIOs, including that the current provisions enable courts to 'bargain' with, or 'reward' respondents by not making a PO, or making a shorter term PO when they complete a VIO. The Bill addresses this issue by

providing that:

- courts must consider a respondent's non-compliance with an intervention order when deciding whether to make a PO or vary a DVO, and
- while courts may consider a respondent's compliance with an intervention order, courts must not refuse to make a PO or vary a DVO merely because a respondent has complied.

The Bill also changes the name of VIOs to intervention orders. This change will help clarify that once a respondent has agreed to an intervention order being made, they should comply with it in the same way as they should comply with other court orders.

Information sharing – recommendation 78

The Act does not expressly enable information to be shared between government agencies and/or non-government organisations that provide domestic and family violence services. Instead, a range of legislation governs the sharing of particular types of information. The Taskforce identified that this complex overlay of legislative provisions creates confusion and uncertainty and can prevent or delay agencies being able to adequately assess risk and provide services.

The Bill provides a framework that enables certain government and non-government service providers to share victim and perpetrator information in certain circumstances for the purpose of assessing risk and managing cases where there is a serious threat to a person's life, health or safety because of domestic violence. The Bill contains a specific principle that sharing information with consent is the preferred approach, but it prioritises the safety of victims and their families by enabling information sharing to occur without consent.

The Bill includes specific safeguards to prevent the inappropriate sharing of information and protect people's privacy. These include:

- a requirement for the chief executive of the Department of Communities, Child Safety and Disability Services to develop information sharing guidelines – in consultation with the Privacy Commissioner – that provides for the secure storage, retention and disposal of information and guidance on when information should be shared; and
- penalties of up to two years imprisonment or 100 penalty units, for the inappropriate use or disclosure of information.

The Bill provides that the provisions will operate in conjunction with the *Information Privacy Act 2009*. This will enable agencies and funded service providers to continue to share information in circumstances where there are reasonable grounds to believe that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare.

Police referrals to specialist DFV service providers

The Taskforce noted that when police attend a domestic violence incident, they are required to obtain consent before referring a victim or perpetrator to support services. Although the Taskforce supported this continuing, it noted that referrals without consent should be allowed where the risk is assessed as high.

Accordingly, the Bill enables police to share a limited range of information with specialist DFV service providers if there is a domestic violence threat to a victim's life, health or safety, or if the person has committed domestic violence.

The legal framework for the NDVOS in Queensland — recommendation 90

Currently, the Act provides that DVOs made anywhere in Australia or in New Zealand are recognised and enforceable in Queensland when an aggrieved person manually registers their order with a Queensland Magistrates Court.

The Taskforce often heard about the difficulties victims face and the lack of protection for them when they flee to or from Queensland, live in border areas such as Tweed Heads and Coolangatta or live and work in different states. The Taskforce supported Queensland participating in the NDVOS to improve cross-jurisdiction protection for victims.

The Bill improves safeguards for victims and streamlines processes by:

- removing the manual registration process and providing for the automatic recognition of interstate orders, so victims do not need to engage with a court in their new location
- treating the contravention of an interstate DVO as if it were a Queensland DVO
- recognising any disqualifications attached to an interstate DVO — for example, to hold firearm or weapon licence, and
- allowing for the exchange of information about DVOs among Queensland and interstate courts and police.

Increasing penalties for breaching police protection notices and release conditions

Until the *Criminal Law (Domestic Violence) Amendment Act 2015* increased the penalties for breaching court issued DVOs, the maximum penalty for breaching PPNs and release conditions was consistent with the maximum penalty for breaching DVOs in circumstances where the respondent does not have any previous aggravating convictions.

The Bill restores consistency by increasing the maximum penalty for breaching a PPN or a release condition from two years imprisonment or 60 penalty units, to three years imprisonment or 120 penalty units.

Alternative ways of achieving policy objectives

The Bill is essential to implement key Taskforce recommendations and the COAG agreed model laws for the NDVOS. Amending legislation is the only way of achieving the policy objectives.

Estimated cost for government implementation

Necessary implementation activities will include training for police, information for magistrates on the legislative changes, and system changes. Implementation of the legislative amendments will be supported by the ongoing reforms to the service system and the funding allocations as part of the 2016-17 Budget to continue implementation of the Queensland Government response to the Taskforce Report. Any other implementation costs arising from initiatives to support the amendments to the Act will be met from existing agency resources.

The costs of implementing the Interim Order Reference Solution in Queensland are not expected to be significant and will be met from existing resources. The cost implications of the longer term National Order Reference Solution are still to be determined and COAG has yet to consider and agree a funding source.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Legislation has sufficient regard to the rights and liberties of individuals, including privacy and confidentiality (section 4(2) of the *Legislative Standards Act 1992*)

Clause 44 — new Part 5A enabling information sharing

Clause 44 of the Bill inserts a new Part 5A into the Act that enables government and non-government service providers to share victim and perpetrator information without consent for the purpose of assessing risk, and also managing cases where there is a serious threat to a person's life, health or safety because of domestic violence. These provisions are a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality, under section 4(2) of the *Legislative Standards Act 1992*.

The need to share information without consent is necessary to protect victims of domestic violence and their children and ensure their safety and wellbeing. A lack of effective information sharing has been found by several coronial inquests and other investigations to be at the heart of systemic failures to protect victims and their children from serious and fatal domestic and family violence. These have included the 2014 Queensland inquest into the death of Noelene Marie Beutel and the 2015 Victorian inquest into the death of Luke Geoffrey Batty.

The Bill provides limitations and safeguards that apply to the sharing of information without consent. These are:

- obtaining consent before sharing a person's private information is specifically identified as the best practice approach in the principle in the new section 169B(a)
- information may only be shared to the extent that it is relevant to assess if there is a serious threat to the life, health or safety of a person because of domestic violence or respond to a serious threat to the life, health, or safety of a person because of domestic violence
- only specialist DFV service providers and prescribed entities can share information with each other for the purpose of risk assessment. Other support service providers may give information to specialist DFV service providers and prescribed entities, but must not receive information or share information with any other person for this purpose
- other support service providers will only be able to share information when a serious threat has been identified, and only for the purpose of responding to the serious threat
- the chief executive of the Department of Communities, Child Safety and Disability Services will be required to develop an information sharing protocol – in consultation with the Privacy Commissioner – that provides for the secure storage, retention and disposal of information and provides detailed guidance in relation to when information should be shared, and
- penalties of up to two years imprisonment or 100 penalty units, for the inappropriate use or disclosure of information.

Clause 44 — new section 169J enabling information about expired convictions for domestic violence offences to be shared

The new section 169J overrides people's existing rights under the *Criminal Law (Rehabilitation of Offenders) Act 1986* and enables information about all convictions for domestic violence offences to be shared, notwithstanding the expiry of the relevant rehabilitation period. This provision is a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality, under section 4(2) of the *Legislative Standards Act 1992*.

The provision is necessary to ensure the effective protection of victims of domestic violence and their families, particularly where they face serious threats from a perpetrator who has previously committed domestic violence against them, other people, or a series of other people. A prior pattern of behaviour is highly relevant to assessing the risk to a victim and taking action to reduce those risks and maximising the victim's safety. Having access to the details of all of the perpetrators' domestic violence related convictions will enhance decision making to safeguard the victim and help prevent further, potentially fatal, domestic violence.

Clause 44 — new section 169F enabling police to refer people to domestic and family violence services without their consent

The new section 169F enables police to refer people to specialist DFV service providers and share information with the service provider, without the person's consent, if there is a domestic violence threat to their life, health or safety, or if they have committed domestic violence. This provision is a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality, under section 4(2) of the *Legislative Standards Act 1992*.

The provision is necessary to ensure that victims have the opportunity to access services to increase their safety, protection and wellbeing at the earliest available opportunity and to enhance opportunities for agencies to intervene before, potentially fatal, violence occurs. The nature and dynamics of domestic and family violence sometimes mean that victims do not appreciate the level of risk they face until they discuss their circumstances with a specialist DFV service provider and can be reluctant to consent to being referred to a service if, for example, the perpetrator is still close by when police attend. In addition, the provision will provide perpetrators with more opportunities to change their behaviours.

The following limitations and safeguards will apply to the referrals and information sharing:

- the referring police officer must have a reasonable belief that the person is experiencing domestic violence and there is threat to the person's life, health or safety, or that the person has committed domestic violence
- police officers may only share limited information — the person's name, contact details, details of the officer's reasonable belief, and any other information that is reasonably necessary for a service to be provided
- the information is to be shared for the purpose of the specialist DFV service provider contacting or attempting to contact the person, and offering to provide a domestic and family violence service to the person, and
- penalties of up to two years imprisonment or 100 penalty units, for the inappropriate use or disclosure of information.

Clause 17 — setting a five year minimum duration for protection orders

The Act provides that POs continue in force until the date specified in the order or the day that is two years after the order is made — whichever day comes first. If a court is satisfied there are special reasons, it can order that the PO last for longer than two years (section 97).

Clause 17 of the Bill broadens the court's discretion to determine the appropriate length of POs and provides that if a court does not specify the duration of a PO, the order will remain in force for five years. The clause also provides that courts can only make orders that last for less than five years if satisfied there are reasons for doing so. This is a potential departure from the principle that sufficient regard be given to the rights and liberties of individuals under section 4(2) of the *Legislative Standards Act 1992*.

The change is necessary to ensure that people who fear or experience domestic and family violence are protected for as long as needed and that perpetrators are held accountable for their actions. The changes will reduce the need for victims to seek extensions of their POs or new orders after the expiry of their order. It also increases courts ability to protect victims where there are factors that lead to ongoing risks of further violence, for example where parents will have ongoing contact with their children. Existing limitations and safeguards will continue to apply to the making of POs and courts will continue to have discretion to determine the length of POs in the circumstances of each case.

Clauses 19, 32 and 45 — expanding the role of and protection in police protection notices

Currently, police can impose more onerous conditions to restrict the behaviour of respondents — such as an ouster condition that lasts until a court hearing — when they detain them and subsequently release them on conditions under Part 4, Division 3 of the Act. The threshold for a respondent's detention is that a person is in danger of injury or property is in danger of being damaged.

Clause 19 of the Bill expands the circumstances in which police can impose such conditions to situations where the condition is necessary or desirable to protect the aggrieved or another person as part of a PPN. Clauses 32 and 45 provide that while personal service is required for a PPN, a PPN may be enforceable if a police officer has told a respondent about the existence of the PPN and the conditions contained in the PPN. This is a potential departure from the principle that sufficient regard be given to the rights and liberties of individuals under section 4(2) of the *Legislative Standards Act 1992*.

This departure is necessary to ensure that people who fear or experience domestic and family violence are effectively protected and perpetrators are held accountable in the period between police attending an incident and the court hearing an application for a PO.

The enforcement of PPNs is consistent with the enforcement of DVOs, in that personal service will be required, but if a respondent breaches a condition they have been advised has been included in a PPN, it will constitute an offence. This will ensure that victims are provided with the earliest possible protection and perpetrators are held accountable for their actions.

Limitations and safeguards will apply to the issuing of more onerous PPNs. The limitations and safeguards are:

- a PPN can only be issued when a police officer reasonably believes the respondent has

committed domestic violence and the condition is necessary or desirable to protect a victim or another named person
- if the respondent is not present at the same location as the police officer, the officer must make reasonable attempts to locate and speak to them before issuing a PPN
- if it is proposed to include an ouster condition in relation to the aggrieved person's usual place of residence in a PPN, the police officer must consider the same factors as a court must consider, and for all ouster conditions must consider including a return condition to allow the respondent to recover personal property, while accompanied by a police officer
- a senior sergeant must approve the issuing of the PPN with the more restrictive conditions on a respondent's behaviour
- personal service will continue to be required for service of PPNs
- a respondent cannot be subject to breach proceedings unless they have been told about the existence of the PPN and the condition they are alleged to have breached, and
- maintaining prescribed timeframes for consideration of the PPN by a court to ensure that the court considers the application as soon as possible.

These safeguards and limitations balance the need to provide immediate, effective protection to victims when domestic and family violence occurs, with protecting the rights of the respondent.

Clause 40 — police power to direct a person to move to and remain at another place

Under section 134 of the Act, police can direct a person to remain at an appropriate place so that they can serve an application for a PO or a DVO on the person, or issue them with a PPN. Clause 40 of the Bill expands this power to enable police to also direct a person to move to an appropriate place and remain there for these purposes. This is a potential departure from the principle that sufficient regard be given to the rights and liberties of individuals under section 4(2) of the *Legislative Standards Act 1992*.

The power is necessary to ensure that victims are protected and that police can effectively comply with their obligation to explain an application, order or PPN to a respondent when they serve it. Requiring the respondent to move from the scene will help to increase the respondent's ability to understand the notice served on them, and assist to reinforce the seriousness of the domestic violence that has occurred.

Limitations and safeguards will apply to the use of the power. These are that:
- the power can only be used for the purpose of serving an application for a PO, a DVO, or serving or issuing a PPN
- an officer will only be able to give the direction if it is contrary to the interests of the person or another person for the person to remain at the current location
- the person cannot be required to remain at a place for longer than one hour, unless it is reasonably necessary, and for no longer than two hours
- when issuing a direction police will be required to inform the person of why the direction is being given and other key information
- the person must be warned it is an offence not to comply with a direction without a reasonable excuse
- a police officer will be required to remain in the presence of the person while the person moves to and remains at the other place
- police will be prohibited from questioning a person about the person's involvement in the commission of an offence or suspected offence while they are subject to the direction

- if the person fails to comply with the direction, the police officer must, if practicable, again warn the person it is an offence not to comply with the direction and must give the person a further reasonable opportunity to comply with the direction, and
- the direction to move to another place will be an 'enforcement act' under the *Police Powers and Responsibilities Act 2000* and its use must be recorded by the police officer in a register in the same way as when a person is detained.

These limitations and safeguards balance the need to provide effective protection to victims when domestic violence occurs, with protecting the rights of the respondent.

Clauses 45 and 46 — increased penalties for breaching police protection notices and release conditions

Clauses 45 and 46 of the Bill increase the penalties for a contravention of a PPN and release conditions from a maximum penalty of two years imprisonment or 60 penalty units, to a maximum penalty of three years imprisonment or 120 penalty units. This is a potential departure from the principle that legislation have sufficient regard to an individual's rights and liberties under section 4(2) of the *Legislative Standards Act 1992*.

This departure is necessary to recognise the expanded role of and protection in PPNs, and aligns the maximum penalty for breaching a PPN or release condition with the maximum penalty for breaching a DVO where the respondent does not have any previous aggravating convictions. The increase reinforces that domestic violence will not be tolerated in our community and perpetrators will be held accountable for their behaviour.

Clauses 51 to 61 — amendments to implement the National Domestic Violence Order Scheme

While arguably a FLP issue may arise due to the automatic registration of DVOs under the NDVOS and the impact this has on the rights and liberties of the respondent, any potential breach is considered justifiable given the need to protect victims. Also, under the existing manual registration scheme contained in Part 6 of the Act (and equivalent provisions in other jurisdictions), an applicant need not give notice of an application for registration or variation of an interstate order to the person against whom the order was originally made and a registered order is enforceable without notice. Section 177 of the Act also specifically provides that it is not a defence in proceedings for an offence involving an interstate order that a person did not know that the interstate order could be registered or varied in Queensland or was registered or varied in Queensland. A DVO issued in Queensland includes information about the fact that it is enforceable in other States and territories and New Zealand without further notice.

Clause 68 – suspension of weapons licence when a respondent is subject to police protection notice or release condition

Clause 68 of the Bill amends the *Weapons Act 1990* to provide that when a person who is a licenced weapons holder is named as a respondent on a PPN or subject to release conditions, their licence is suspended once the PPN or release conditions are in force. This is a potential departure from the principle that legislation have sufficient regard to an individual's rights and liberties under section 4(2) of the *Legislative Standards Act 1992* because it but may adversely affect some respondents whose employment involves possessing and using weapons. It also results in the suspension of a licence based on a decision being made by a

police officer rather than as a result of a court order.

The suspension of a respondent's weapons licence is necessary to ensure that police have the ability to provide appropriate protection to victims in circumstances where the respondent has access to weapons, and will improve protection for victims by requiring respondents to surrender any weapon they possess until the court makes a final determination. The change recognises the expanded role of and protection in PPNs, and aligns PPNs and release conditions with the way licences are suspended when courts issue TPOs.

Consultation

The Taskforce undertook extensive consultations in preparing its report. The consultation process included meeting with 367 different groups of victims, service providers and community leaders. This consultation informed the Taskforce recommendations that are being implemented through this Bill.

The review of the Act was informed by further stakeholder consultation. In early 2016, the Department of Communities, Child Safety and Disability Services received 120 responses to an online survey and 22 written submissions in response to a Terms of Reference paper on the review.

In March 2016, consultation with 35 key domestic and family violence and legal stakeholders was conducted on the proposals in the Bill. The attendees included: DVConnect, Queensland Domestic Violence Service Network, Domestic Violence Prevention Centre Gold Coast Inc., Cairns Regional Domestic Violence Service, Micah Projects, the Queensland Centre for Domestic and Family Violence Research, Queensland Law Society, Bar Association Queensland, Legal Aid Queensland and the Women's Legal Service.

Confidential consultations on a draft Bill were undertaken with the same organisations in May 2016. The proposals in the Bill were also discussed with a small group of women who had experienced domestic and family violence.

Consistency with legislation of other jurisdictions

Police issued protection notices

The proposed approach in the Bill is broadly consistent with the approach of other Australian jurisdictions and New Zealand (NZ), with the exception of Tasmania. In all jurisdictions, except Tasmania, police issued orders provide short-term protection until a court hearing. Other jurisdictions enable police notices to protect other victims, such as children and associates, and provide flexibility for police to include a range of conditions in the notice, including ouster and non-contact conditions that last until a court hearing.

Tasmania has a different system in which police can issue a notice that contains the same conditions as a court issued DVO and lasts for 12 months. There is no mandatory court application, but respondents can apply to court to vary or revoke notices.

Duration of protection orders

There are divergent approaches to the duration of POs in Australian jurisdictions and NZ. In South Australia (SA) and NZ courts have no power to set the duration of orders and orders last indefinitely, or until discharged by a court. In SA, respondents must wait 12 months before applying to discharge or vary orders.

In the Australian Capital Territory (ACT) orders last for two years, unless there are exceptional circumstances justifying a longer period. New South Wales (NSW) and Western Australia (WA) require courts to determine the duration of orders and set a default period of 12 months and two years respectively where the court does not specify a duration. Victoria, Tasmania and the Northern Territory (NT) require courts to set the duration of orders, without providing a default period.

Consideration of family law orders

The Bill will bring Queensland into line with all other Australian jurisdictions, which require courts making DVOs to consider any family law order that they are aware of.

Information sharing

Other Australian jurisdictions have different approaches to sharing domestic and family violence information.

Victoria, SA and the NT rely on general information privacy legislation, rather than specific domestic violence legislation. In these jurisdictions, disclosure of domestic and family violence information can occur:

- with a person's consent or where the sharing of information is for a purpose which was made clear at the time of its collection, and/or
- without a person's consent where there is a serious threat to their life or health.

Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) allows government and identified non-government organisations to share domestic and family violence information. The legislation supports the NSW integrated service response, which includes referral pathways between relevant agencies and a multi-agency case management forum for high risk cases. The legislation provides that agencies may share victim and perpetrator information, without consent, where the use or disclosure is necessary to prevent or lessen a serious domestic violence threat to the person or any other person and the person has refused to give consent or it is unreasonable or impractical to obtain the person's consent.

In WA, the *Restraining Orders Act 1997* (WA) allows information sharing without consent between prescribed government agencies when it is necessary to ensure the safety of a person protected by a violence restraining order (the equivalent of a Queensland DVO), or the wellbeing of a child affected by such an order. The *Children and Community Services Act 2004* (WA) allows information sharing without consent between prescribed government agencies and non-government organisations when it is relevant to the safety of a person who has been subject to, or exposed to, family and domestic violence.

Under the *Children and Community Services Act 2004* (WA), non-government organisations can disclose or request information from government agencies, but the legislation does not allow the exchange of information between non-government organisations without consent.

National Domestic Violence Order Scheme

Each state and territory government is working towards implementing the model laws framework for the NDVOS in their legislation. It is anticipated that legislation will be introduced into Parliament for each state and territory by end of 2016.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill may be cited as the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016*.

Clause 2 provides that the Act commences on a day to be fixed by proclamation.

Part 2 Amendment of *Domestic and Family Violence Protection Act 2012*

Division 1 Preliminary

Clause 3 provides that this part amends the *Domestic and Family Violence Protection Act 2012* (the Act).

Division 2 Amendments to enhance domestic and family violence protection system

Clause 4 inserts a note into section 37(1)(b) which provides that examples of the type of behaviour that constitutes domestic violence can be found in sections 8, 11 and 12 of the Act. This is to clarify that a wide range of behaviour can constitute domestic violence.

The clause also amends section 37 regarding circumstances where an intervention order has previously been made against the respondent. The clause provides that, in deciding whether a PO is necessary or desirable to protect an aggrieved from domestic violence, the court must consider a respondent's failure to comply with an intervention order. While the clause also provides that the court may consider a respondent's compliance with an intervention order, the court must not refuse to make a PO merely because of this compliance. This is intended to ensure victims' access to protection does not depend on whether or not the respondent has complied with an intervention order and clarifies that making an intervention order should not be considered a viable alternative to a PO.

Clause 5 amends section 44 to clarify that a court can make a TPO whether or not the nature of the PO sought and the grounds on which the PO is sought are: stated in the police protection notice taken to be an application for the PO; stated in a statement filed in the court under the new section 111(3) in clause 30; or the court has otherwise been made aware of them..

Clause 6 makes minor and technical amendments to section 56.

Clause 7 amends section 57(1) to require a court making or varying a DVO to consider whether imposing any other condition is necessary or desirable to protect the aggrieved from domestic violence; a named person from associated domestic violence; or a named person who is a child from being exposed to domestic violence. Requiring courts to consider whether additional conditions, beyond the standard condition that the respondent not commit

domestic violence and be of good behaviour, are necessary or desirable will help courts to better tailor protection in individual cases.

The clause also removes the reference to courts imposing conditions that are desirable in the interests of respondents. This will help ensure courts prioritise victim safety when considering what conditions to impose. The change is not intended to stop courts from receiving information or submissions about the workability of proposed conditions to ensure DVOs continue to be effective in protecting victims.

Clause 8 replaces the Part 3, Division 6 heading. It changes it from 'Voluntary intervention orders' to 'Intervention orders'. The removal of the word 'voluntary' is to clarify that while a respondent must agree to an intervention order being made under Part 3, once made, it is not voluntary for the respondent to comply with the order.

Clause 9 amends section 69 to remove references, throughout the section, to the word 'voluntary'.

Clause 10 omits section 76 because clause 50 inserts the definition of 'family law order' into the Act's schedule dictionary.

Clause 11 amends section 78(1) to provide that before making or varying a DVO, the court must consider any family law order it is aware of, and, if the family law order allows contact between a respondent and a child that may be restricted under the proposed DVO or variation, it must consider exercising its powers to revive, vary, discharge or suspend the family law order. This amendment implements recommendation 99 of the Taskforce Report (to the extent the recommendation relates to family law orders) and is intended to improve consistency between DVOs and family law orders without diminishing protection for victims. It sets a clear expectation courts will use their powers to revive, vary, discharge or suspend family law orders that conflict with a proposed DVO. The clause also makes a consequential amendment to the heading of section 78.

Clause 12 amends section 83(2) to also provide that if a person mentioned in subsection (1) (including a police officer) is named as a respondent in a PPN or release conditions, the provisions of the *Weapons Act 1990* will apply to the person for the duration of the PPN or release conditions despite the exemption under section 2 of the Weapons Act. This means that the person will not be able to use, or have access to, a weapon during his or her employment without committing an offence. The clause amends section 83(3) to clarify that the respondent cannot be convicted of such an offence unless the DVO, PPN or release conditions have been served on the respondent. The new subsection (4) provides that the exceptions to this requirement are if the respondent is present in court when the DVO is made, or is present when the PPN is issued and a police officer has explained the PPN to them.

Subsection (4) is silent regarding release conditions because release conditions are always personally served on the respondent and always take effect at the point of issue. The intent of the change is to ensure that a person who is a respondent to a PPN or release conditions will be subject to the provisions of the Weapons Act in the same way as a person subject to a DVO.

The amendments to section 83 complement the Bill's changes to the Weapons Act to improve

protection for victims and reduce opportunities for respondents to threaten or seriously injure them with weapons.

Clause 13 amends section 84(2) and (3) to place a requirement on courts when they are about to make a DVO, and the respondent or the aggrieved are before the court, to ensure the parties understand the type of behaviour that constitutes domestic violence. The clause also inserts a note beneath this requirement which provides that examples of the type of behaviour that constitutes domestic violence are included in sections 8, 11 and 12 of the Act. The purpose of the change is to ensure that parties understand the broad range of behaviour which can constitute domestic violence.

Clause 14 inserts an additional subsection (4) into section 85 to clarify that a reference in section 85(1) or (2) to a copy of a DVO served on the respondent includes a copy given to the respondent, or the respondent's appointee, or sent to the respondent under section 184(4). The purpose of this change is to ensure that any copy of a DVO given to a respondent includes the information mentioned in section 84(2).

Clause 15 amends section 91 regarding circumstances where an intervention order has previously been made against the respondent. The clause provides that, before a court varies a DVO, the court must consider a respondent's failure to comply with an intervention order. While the clause also provides that the court may consider a respondent's compliance with an intervention order, the court must not vary a DVO merely because of this compliance. This is intended to ensure a victim's access to protection does not depend on whether or not the respondent has complied with an intervention order.

Clause 16 amends section 92(2) to provide that in considering whether to make a variation to a DVO, the court must have regard to the principle that the safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount. It also amends section 92(3) to provide that if the variation is to reduce the duration of an order, the court may only vary the order if the court considers there are reasons for doing so. This amendment complements the amendments made by clause 17 and ensures there is consistency between the provisions dealing with the duration of POs and the provisions dealing with applications to reduce the duration of POs.

Clause 17 replaces the current section 97 with a new section 97. The new section provides that a court may set the duration of a PO for any period the court considers necessary or desirable to protect the aggrieved from domestic violence or a named person from associated domestic violence. However, it stipulates that the duration must be for a period of at least five years unless the court is satisfied there are reasons for making a shorter order.

The section clarifies that, in determining the duration, the court's paramount consideration must be the safety, protection and wellbeing of people who fear or experience domestic violence, including children. The section also provides that if the court does not specify a duration period, the PO will continue in force for a default period of five years. This amendment aims to balance courts' flexibility to determine the length of protection orders in individual cases, with ensuring victims have access to the long term protection they need. It also sets an expectation that the court will consider the protection needs in the individual case and determine the appropriate length of the PO, and that a PO will be made for a minimum period of five years unless the court is satisfied there are reasons for making a shorter order.

Clause 18 inserts a new subsection 100(1A) to provide that if after investigation, the police officer reasonably believes domestic violence has been committed, the police officer must consider whether it is necessary or desirable to take any of the actions listed in subsection (3) to protect a person from further domestic violence. The subsection also provide that where an officer believes it is necessary or desirable to immediately protect a person from domestic violence, they must consider the most effective way of doing this. These requirements are intended to help set a clear expectation that victims will be provided with protection as quickly as possible. The clause also amends section 100(2)(b) to clarify that a police officer may apply for a variation to a TPO or a PO if they reasonably believe domestic violence has been committed.

Clause 19 replaces existing section 101 with a new section 101 and also inserts new sections 101A and 101B.

The new section 101 empowers police officers to issue PPNs. Specifically, the section provides that a police officer may issue a notice if the officer reasonably believes that: the respondent has committed domestic violence; no existing DVO has been made or PPN issued naming the parties; a PPN is necessary or desirable to protect the aggrieved from domestic violence; and the respondent should not be taken into custody under division 3. This section removes the previous requirement that a respondent be present at the same location as the police officer when a PPN is issued. As a safeguard for respondents, it stipulates that where a respondent is not present at the same location as the police officer, the officer must have made a reasonable attempt to locate and talk to the respondent to afford them natural justice in relation to the issuing of the notice. The section clarifies that it is subject to sections 102 and 103 of the Act which deal with the requirement for approval from a supervising police officer and the prohibition of cross-notices respectively.

Section 101A outlines the circumstances in which a police officer must issue a PPN. Specifically, it provides that a releasing police officer must issue a PPN if the respondent has: been taken into custody under division 3; not been brought before a court to have a PO application heard while still in lawful custody; and not had a TPO made against them. The section also provides that a PPN may only be issued under section 101A if section 125 does not apply. The section then clarifies that it is subject to sections 102 and 103 of the Act, which deal with the requirement for approval from a supervising police officer and the prohibition of cross-notices respectively. This is consistent with the policy intent that a PPN will not be issued in circumstances where a PPN has already been issued or a DVO has been made involving the same parties.

Section 101B expands the range of people able to be protected by a PPN by empowering police officers to name particular persons, in addition to the aggrieved, in a notice. An issuing police officer may name a child, other relative, or an associate of the aggrieved (or a child who usually lives with the aggrieved) in a notice if the officer reasonably believes naming them is necessary or desirable to protect them from associated domestic violence, or, in addition, protect a child from being exposed to domestic violence. This is intended to enable police to provide more victims with immediate protection from further violence.

Clause 20 inserts a new subsection (1A) into existing section 102 to clarify that where a police officer proposes to issue a PPN under section 101A (where the respondent has been detained), the supervising police officer may not refuse approval to issue the notice but may give or refuse approval for a person to be named or a condition to be imposed in the notice. It

also amends existing section 102(2)(b) to clarify requirements regarding supervising police officers for notices issued under sections 101 and 101A.

Clause 21 amends section 103 to clarify that once a PPN has been issued between parties that names a person as the aggrieved, a police officer cannot issue a further PPN between the same parties that names that person as the respondent. The intent of the change to this provision is to clarify that this prohibition applies from when the first notice is issued (regardless of whether it is enforceable) until that notice either lapses or is no longer in force.

Clause 22 inserts a new subsection (1A) into existing section 104 to expand the circumstances in which a police officer must ask a respondent to provide their contact details and an address for service of documents. This amendment is to accommodate the new circumstance where a police officer issues a PPN when the respondent is not present. The clause also makes minor consequential changes to section 104.

Clause 23 amends:

- section 105(1)(d) to provide that a PPN must state the name of the aggrieved and any named person
- section 105(1)(f) to provide that rather than stating the grounds on which a police officer reasonably believes domestic violence has been committed, a PPN must state that the issuing police officer is satisfied that the grounds for issuing a notice specified in sections 101 or 101A are met
- section 105(1)(g) to include a reference to the standard 'conditions' rather than the standard 'condition', and
- section 105(1)(h) to make reference to other conditions imposed under section 106A.

The clause also adds a new subsection (3) that provides that a PPN may state the nature of the PO that is sought under s112 and the grounds on which the order is sought. This complements the changes made by clauses 30 and 31. The intent of the change is to provide flexibility for police to issue a PPN on the basis they are satisfied that the grounds outlined in sections 101 or 101A are met, without necessarily needing to record the details within the PPN. This will ensure that a PPN can be issued quickly to provide protection from domestic and family violence and allow police to conduct further investigations and file additional material to support their court application. Police will remain able to issue a PPN which includes supporting information for the court application if it is available at the time the PPN is issued.

Clause 24 replaces existing section 106 with a new section 106 and also inserts a new section 106A. The new section 106 provides that a PPN must include a condition that the respondent must be of good behaviour towards the aggrieved and must not commit domestic violence against the aggrieved. It also provides that if a notice includes a named person, the notice must also include a condition that the respondent must be of good behaviour towards the named person; must not commit associated domestic violence against the named person; and additionally, where a child is a named person, must not expose the child to domestic violence.

The new section 106A outlines other conditions a PPN may include — namely, a cool-down condition, a no-contact condition, an ouster condition or a return condition. The clause specifies prerequisites that must be met before the police officer issuing the notice may impose any or all of these conditions. The clause also clarifies premises that may be stated in a cool-down or ouster condition. It is intended that the section will enable police to provide

victims with more effective protection from further violence.

Clause 25 makes consequential amendments to section 107 as a result of the expanded protection offered by PPNs.

Clause 26 inserts new sections 107A to 107D. Sections 107A to 107C provide details regarding the operation of no-contact, ouster and return conditions which may be included in a PPN. Section 107D explains the relationship between PPNs and family law orders.

In particular, section 107A specifies activities which a no-contact condition may prohibit a respondent from doing. It also stipulates particular activities which are not prohibited by a no-contact condition, for example, a respondent asking a lawyer to contact the aggrieved or a named person. The clause also provides sectional definitions for the terms 'lawyer' and 'victim advocate'.

Section 107B provides that an ouster condition may prohibit a respondent from approaching within a stated distance of, entering, attempting to enter, and remaining at stated premises.

Section 107C provides that a return condition is one (included in a PPN that includes an ouster condition) that allows a respondent, under the supervision of a police officer, to either return to stated premises to recover stated personal property, or, remain at stated premises to remove stated personal property. The section stipulates a return condition may not allow a respondent to recover or remove personal property that is required to meet the daily needs of any person who continues to live in the premises stated in the ouster condition. It also provides that a return condition may state either the time at which the respondent may return to and leave the premises, or for how long the respondent may remain at the premises, without contravening the PPN.

Section 107D clarifies the relationship between PPNs and Commonwealth family law orders. It provides that if a police officer is considering imposing a condition in a PPN that would prevent or limit contact between the respondent and their child/ren, the officer must ask the respondent and the aggrieved whether a family law order allowing contact between the respondent and the child/ren is in effect, and, if so, to provide details of the terms of the order that allow such contact. The section provides that if the police officer knows, or reasonably believes, the proposed condition is inconsistent with a family law order, the officer must not impose the condition. The officer must instead consider whether it is necessary or desirable to apply to a magistrate for a TPO that prevents or limits contact between the respondent and the child/ren. In line with the amendment to section 78(1) at clause 11, the magistrate would be required to consider the family law order, and whether to vary, discharge or suspend it, before making the TPO. The section also clarifies that if a condition is included in a PPN which is inconsistent with a family law order, the condition is of no effect to the extent of the inconsistency (as the Commonwealth order prevails), but the inconsistency does not invalidate or otherwise affect the PPN.

Clause 27 amends section 108(1) to require a police officer who has served a PPN which includes a cool-down or ouster condition, to consider the accommodation needs of the respondent.

Clause 28 replaces existing section 109 with a new section 109 and inserts a new section 109A.

The new section 109 provides that a police officer must personally serve a PPN on the respondent, even if the notice has taken effect under section 113(1)(b) because a police officer has told the respondent about the notice and the conditions in it. This is because, under section 112, a PPN is taken to be an application for a PO. Section 109 also clarifies that a PPN cannot be served on a respondent after an event mentioned in section 113(3)(a), (b), (c) or (d) has happened.

Section 109A provides that a police officer must give a copy of a PPN to the aggrieved and each named person. It clarifies that this is not required if the police officer reasonably believes the named person is a child and a copy of the notice has already been given to their parent because the parent is an aggrieved or a named person. It further clarifies that failure to comply with this section does not invalidate or otherwise affect the PPN.

Clause 29 amends section 110(1) so that the requirements of the section apply when a police officer tells a respondent about a PPN under section 113(1)(b). The clause also inserts new requirements under sections 110(2) and (3). Under section 110(2) a police officer serving a PPN must explain to the respondent the notice, the grounds on which the issuing officer believes domestic violence has been committed and the reasons for the issuing officer imposing the conditions in the notice. This is intended to ensure that respondents understand that the behaviour they have engaged in constitutes domestic violence, the effect of the PPN, and why it has been issued.

Additionally, section 110(3) requires a police officer serving a PPN to explain to the respondent that:

- if they have a weapons licence, or are a body's representative as mentioned in section 10(3) of the *Weapons Act 1990*, that licence or endorsement as the body's representative is dealt with by sections 27A or 28A of the Weapons Act, and
- where applicable, despite the exemption under section 2 of the Weapons Act, the respondent is not exempt from the Weapons Act for the duration of the PPN.

Section 110(3) is amended to provide that a police officer must also explain the type of behaviour that constitutes domestic violence. This is intended to ensure that respondents understand the type of behaviour that they are not permitted to engage in. The clause also inserts a note beneath this requirement which provides that examples of the type of behaviour that constitutes domestic violence are included in sections 8, 11 and 12 of the Act. This complements the changes made to section 37 by clause 4.

Clause 30 inserts new subsections (2) to (5) and (7) to (8) into section 111. The new subsection (2) and (3) provide that where a PPN does not state the nature of the PO sought and the grounds on which the order is sought, police must file with the court a statement dealing with these matters before the first court hearing date or within 14 days of the PPN being issued, whichever is earlier. The clause then inserts a note underneath subsection (3) which states that section 153 provides that a police officer may file a document in a proceeding under this Act by electronic or computer-based means. These subsections require a statement to be filed with the court in relation to the nature of the PO sought and the grounds on which the order is sought but this does not prevent the court from informing itself in any way about the application, or prevent the parties from filing additional materials with respect to the application.

Subsection (4) provides that the statement must be signed by the officer who issued the PPN

and specifies how the statement is to be served on the respondent.

Subsection (5) clarifies that the new subsection (3) does not limit: the way in which a court may inform itself of matters under subsection (2)(a) or (b); or the documents or evidence a party may file or give in the proceeding generally or under the relevant court rules.

Subsection (7) clarifies that the reference in subsection (2)(a) to the application for a PO is a reference to the application for a PO that a PPN is taken to be under section 112.

Subsection (7) clarifies that once a PPN is issued, a copy of the notice must be filed in the local Magistrates Court for the respondent regardless of whether the notice has been served on the respondent or not. This is required as the PPN is taken to be an application for a PO under section 112.

Clause 31 inserts a new subsection (2) into section 112. Subsection (2) provides that this section will not apply where a PPN is issued under section 101A on a respondent's release from custody and, as required under section 118, a police officer prepared an application for a PO while the respondent was in custody.

Clause 32 replaces the existing section 113 with a new section 113. The new subsection (1) provides that a PPN takes effect when the notice is personally served on the respondent or a police officer tells the respondent about the existence of the notice and its conditions. Subsection (2) outlines the ways in which a police officer may tell a respondent about the existence of a notice. This clause is intended to give police more flexibility to protect victims where, for example, the respondent it deliberately avoiding service.

The new subsection (3) provides that PPNs continue in force until one of the following happens: a magistrate makes a TPO that is served on the respondent or otherwise becomes enforceable under section 177; or a court makes a DVO that is served on the respondent or otherwise becomes enforceable under section 177; or a court adjourns the PO application proceeding without making a DVO; or a court dismisses the PO application.

The new subsection (4) clarifies that the meaning of 'an application for a protection order' in the section varies according to the circumstances in which the PPN is issued.

Clause 33 inserts a new subsection 124(d) that provides that when a person is released from custody and a PPN is issued under section 101A, a police officer must personally serve the notice on and explain the notice to the person as required under sections 109 and 110 of the Act.

The clause also inserts a new subsection 124(2) to clarify that if a DVO or PPN has already been made or issued between the parties that names the person detained as a respondent, police do not have to comply with requirements in sections 124(1), 101A, 118 or 125. In most cases where the DVO or PPN is enforceable, it is expected that police would consider breach proceedings in relation to the conduct. However, in some circumstances a PPN may have been issued or a DVO made which is not yet enforceable. Section 100(1A)(b) will operate to require the police officer to consider what action to take to immediately protect the aggrieved. For example, this could include serving a DVO or PPN that has already been made or issued but not served on the respondent and considering whether to apply for a variation of the DVO to include additional conditions. In the case of an existing PPN, it could

also include police making an application under section 129(1) for an urgent temporary protection order.

Clause 34 replaces section 125 with a new section 125 that sets out the requirements for release conditions. This provision will apply in circumstances where the releasing police officer reasonably believes that a DVO has been made or a PPN issued involving the same parties that names the person detained as an aggrieved; it has not been reasonably practicable to bring the person before the court for the hearing of the application for a protection order; and a temporary protection order has also not been made against the person. Under subsections (2) and (3), the person must be released on the conditions that the releasing officer reasonably believes are necessary or desirable to protect the aggrieved or a named person, including the standard condition that the respondent must be of good behaviour and not commit domestic violence. The intention is to maintain the broad flexibility that police currently have to impose any condition that is necessary or desirable in the circumstances, which can include no-contact and ouster conditions. Subsection (4) provides that the requirements in sections 101B, 102, 106 and 106A (other than to the extent that section refers to cool-down conditions) apply to release conditions in the same way that they apply to PPNs if the releasing police officer decides that it is necessary or desirable for the conditions to be included in the release conditions. Subsection (4) also provides that section 107D applies to release conditions as though a reference to a PPN in that section was a reference to release conditions.

The conditions that a police officer can impose in release conditions are broader than the conditions which can be included in a PPN. This is consistent with the current approach under the Act and remains appropriate because of the complexities which may arise in a circumstance where there is already an existing DVO or PPN which names the detained person as the aggrieved. Under section 102, the police officer will now be required to obtain the approval of a supervising police officer in relation to the conditions which are being imposed, which is an additional safeguard.

Subsection (5) specifies that the release conditions remain in force until any of the circumstances in subclauses (5)(a) to (d) occur. The circumstances are consistent with those that apply to PPNs and which are set out in section 113(3) in clause 32.

Clause 35 updates the section numbers referred to in section 127(2)(b).

Clause 36 updates the section numbers referred to in section 128(7).

Clause 37 replaces subsection 129(2) with a new subsection that sets out the circumstances in which a police officer must apply for an urgent TPO for a person who has been detained under division 3. The subsection clarifies that a police officer must apply before the respondent is released when an application for a PO has been made under section 118(1), the application has not been heard while the person was in custody, and the application will not be heard by a court within five business days after the person is to be released.

Clause 38 amends subsections 130(3) and (4)(b) to add a reference to an application for a PO prepared under section 129(2)(a).

Clause 39 replaces the Part 4, Division 5 heading. It changes it from ‘Other police powers’ to ‘Power to direct person to remain, or move to and remain, at place’.

Clause 40 replaces existing section 134 with a new section 134 and also inserts new sections 134A to 134F.

The new section 134 sets out the circumstances in which Part 4, Division 5 applies. Division 5 applies if a police officer reasonably suspects a person is named as a respondent in an application for a PO, a DVO, or an issued PPN, that has not been served on the person. The section also provides that the division applies if a police officer intends to issue a PPN to a person.

Section 134A empowers a police officer to direct a person to remain at an appropriate place or to move to another stated location and remain at an appropriate place at that location. The section clarifies that the latter power may only be used if, in the police officer's opinion, it is contrary to the interests of the person (or another person) for the person to remain at their current location. The section further clarifies that either direction may only be given to enable a police officer to carry out particular functions — namely, to serve a person with an application, order or PPN; arrange for a person to be told about the existence of an order or PPN and the conditions imposed by it; or issue and serve a person with a PPN. Where a police officer serves a PPN under this section, it also requires them to explain the notice to the respondent. The section provides examples of locations a police officer may direct a person to move to. The section also specifies what the police officer giving the direction must tell the person being directed, and make reasonable efforts to tell the aggrieved. The section clarifies that if a police officer does not make reasonable efforts to tell the aggrieved, this does not invalidate or otherwise affect the direction.

Section 134B sets out limits on the directions able to be given under section 134A. A person may be directed to remain at an appropriate place for one hour, or, a longer reasonably necessary time of not more than two hours, having regard to the particular circumstances. It also provides that the location to which a person may be directed to move must be within a reasonable distance of the person's current location, having regard to the particular circumstances.

Section 134C provides for a person being directed under section 134A to be given a warning. A directing police officer must warn the person that it is an offence not to comply with the direction unless the person has a reasonable excuse; and that the person may be arrested for the offence. It also provides that the police officer must give the person a reasonable opportunity to comply with the direction. The section states that if the person fails to comply with the direction, a police officer must, if practicable, repeat the warning and give the person a further reasonable opportunity to comply with the direction.

Section 134D states that a police officer must not question a person about their involvement in the commission of an offence or suspected offence while the person, under a direction, moves to another location or remains at a place.

Section 134E sets out particular responsibilities for police officers in relation to a direction given under section 134A. It states that the directing police officer must do a thing mentioned in section 134A(1)(a) to (f) without unreasonable delay. It outlines ways in which the police officer may, under section 134A(1)(c) or (e), arrange for a person to be told about the existence of an order or PPN and the conditions imposed by it. The section requires a police officer to remain in the presence of a person while they, under a direction, move to another location or remain at a place.

Section 134F is an offence provision, stating that it is an offence to contravene a direction given under section 134A. The section states a person must comply with a direction given unless the person has a reasonable excuse not to. The maximum penalty for non-compliance is 40 penalty units. The section clarifies that a person does not commit an offence against this section if the person is not proved to be named as a respondent in an application for a PO, a DVO, or a PPN, that has not been served on the person, or if the warning mentioned in section 134C(1) is not proved to have been given to the person.

Clause 41 establishes a new Part 4, Division 6 and inserts a corresponding heading, 'Acting in aid of police powers'.

Clause 42 amends section 153 to clarify that a person can start a proceeding by filing a document electronically. The clause also adds a new subsection (1) to clarify that courts can make a TPO by electronic or computer-based means.

Clause 43 amends subsection 160(2) to expand the range of people who are entitled to a copy of a record of, or a document used or tendered in, a proceeding under the Act to include police officers and prosecutors.

Clause 44 inserts a new Part 5A entitled 'Information sharing' that comprises divisions 1 to 5.

Previously the Act did not contain specific provisions to enable personal information to be shared and the Taskforce identified that the existing legislative framework that guides information sharing without victim consent is complex. Part 5A has been developed in response to recommendation 78 of the Taskforce Report and aims to clarify when personal information can be shared in a domestic violence context.

As outlined in detail below, Part 5A enables particular entities to share information to assess whether there is a serious threat to the life, health or safety of people because of domestic violence; respond to such threats; and refer people who fear or experience domestic violence, or who commit domestic violence, to specialist DFV service providers.

It is intended that the Bill's provisions will not affect the operation of the *Information Privacy Act 2009* (Qld) or the *Privacy Act 1988* (Cth) and that information can continue to be disclosed in accordance with the provisions outlined in those Acts.

Division 1 Preliminary

Section 169A clarifies that the purpose of Part 5A is to enable particular entities to share information, while protecting the confidentiality of the information, to: assess whether there is a serious threat to the life, health or safety of people because of domestic violence; respond to such threats; and refer people who fear or experience domestic violence, or who commit domestic violence, to specialist DFV service providers.

Section 169B outlines the principles for sharing information under Part 5A. These aim to ensure that the safety, protection and wellbeing of victims and their families takes precedence over people's right to privacy.

Section 169C provides definitions for Part 5A of the terms 'information', 'prescribed entity', 'specialist DFV service provider' and 'support service provider'. The section also clarifies

that, in Part 5A, a reference to domestic violence includes a reference to associated domestic violence and a reference to an entity (including a reference to a prescribed entity, specialist DFV service provider or support service provider) includes a reference to a person employed or engaged by the entity.

Division 2 Information sharing

Section 169D enables information to be shared for the purpose of assessing a domestic violence threat. The section provides that a prescribed entity or specialist DFV service provider may give information to any other prescribed entity or specialist DFV service provider if it reasonably believes a person fears or is experiencing domestic violence; and giving the information may help the receiving entity assess whether there is a serious threat to the person's life, health or safety because of the domestic violence. A support service provider may only provide information for this purpose, but is not enabled to share or receive information under this provision.

Section 169E enables information to be shared for the purpose of responding to a serious domestic violence threat. The section provides that a prescribed entity, specialist DFV service provider or support service provider may give information to any other prescribed entity, specialist DFV service provider or support service provider if it reasonably believes a person fears or is experiencing domestic violence; and giving the information may help the receiving entity to lessen or prevent a serious threat to the person's life, health or safety because of the domestic violence.

Section 169F enables a police officer to refer a person to a specialist DFV service provider. A police officer may give referral information about a person to a specialist DFV service provider if the officer reasonably believes: the person fears or is experiencing domestic violence and there is a threat to the person's life, health or safety because of domestic violence; or the person has committed domestic violence against another person. The section also defines 'referral information'.

Section 169G enables the use of information shared under part 5A. The section states that a prescribed entity or specialist DFV service provider may use information given to it under Division 2 to the extent necessary to: assess whether there is a serious threat to a person's life, health or safety because of domestic violence; or lessen or prevent such threats (including by contacting, or attempting to contact, the person or another person involved in the domestic violence, or offering to provide assistance or a service to the person or another person involved in the domestic violence). The section also provides that a support service provider may use information given to it under section 169E to the extent necessary to lessen or prevent a serious threat to a person's life, health or safety because of domestic violence (including by contacting, or attempting to contact, the person or another person involved in the domestic violence, or offering to provide assistance or a service to the person or another person involved in the domestic violence).

Section 169H sets out who may give or receive information on behalf of prescribed entities, specialist DFV service providers or support service providers. The section provides that people employed or engaged by the entity or a police officer may give, receive or use the information if their duties include assessing domestic violence threats or taking action to lessen or prevent domestic violence threats or they are otherwise authorised by the entity.

Section 169I clarifies that information that may be given to an entity under Division 2 may be comprised of facts or opinion.

Section 169J sets out restrictions on the information that may be shared under sections 169D, 169E and169F by stipulating specific circumstances in which information sharing is not enabled under the division.

Division 3 Confidentiality of shared information

Section 169K provides for the confidentiality of information obtained under Part 5A. The section clarifies that it applies to a person who is or has been employed or engaged by a prescribed entity, specialist DFV service provider or support service provider; and in that capacity was given (or given access to) information, under Part 5A, about another person's affairs. It also applies to another person who receives (or is given access to) such information from the first person. The section provides that either person must not use the information, or disclose or give access to the information to anyone else, unless it is permitted under Part 5A, released by an entity subject to the *Information Privacy Act 2009* in accordance with the information privacy principles, or is otherwise required or permitted by law. The section states that the maximum penalty for unauthorised use of, disclosure of or giving of access to information is 100 penalty units or 2 years imprisonment.

Section 169L outlines how police officers may use confidential information obtained under Part 5A. This section clarifies that it applies if a police officer acquires information from a prescribed entity, specialist DFV service provider or support service provider under section 169D or 169E. It states that the officer, and any other police officer to whom the information is disclosed under this section, may use the information to the extent necessary to perform his or her functions as a police officer. The section clarifies that a police officer must not use the information under this section for an investigation or for a proceeding for an offence unless the officer, or another police officer, has consulted with the entity that gave the information about the proposed use. The purpose of this consultation is to consider whether the proposed use of the information for the investigation or proceeding would be in the best interests of a person experiencing domestic violence. The section clarifies that 'using' information includes disclosing, or giving access to, the information to someone else.

Division 4 Guidelines for sharing and dealing with information

Section 169M provides that the chief executive must make guidelines, consistent with this Act and the *Information Privacy Act 2009*, for sharing and dealing with information under Part 5A. It clarifies that the purpose of the guidelines is to ensure: information is shared under Part 5A for proper purposes; to the greatest extent possible, the privacy of individuals is respected when sharing information under Part 5A (having regard to the paramount principle stated in section 4(1) of the Act); and information shared under Part 5A is properly used, stored, retained and disposed of. The section states that in preparing the guidelines, the chief executive must consult with the Privacy Commissioner under the *Information Privacy Act 2009*. It also states that the chief executive must publish the guidelines on the department's website.

Division 5 Protection from liability for giving information

Section 169N provides protection from liability for giving information. It states that where a person, acting honestly, gives information in compliance with Part 5A, they are not liable (subject to the exemptions outlined in section 169O) for giving the information; and, merely because they give the information, they cannot be held to have breached any code of professional etiquette or ethics or departed from accepted standards of professional conduct. It clarifies that in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information. It also clarifies that if the person would otherwise be required to maintain confidentiality of the information under an Act, oath or rule of law or practice, the person does not contravene that Act, oath or rule of law or practice by giving the information; and is not liable to disciplinary action for giving the information.

Section 169O clarifies Part 5A's interaction with other laws. It stipulates that Part 5A does not limit a power or obligation under another Act or law to give information. It also provides that disclosure of information under Part 5A does not waive, or otherwise affect, a privilege a person may claim in relation to the information under another Act or law. It clarifies that subject to the provisions specified in subsection (4), Part 5A applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

Clause 45 amends section 178(1) to provide that it is an offence for a respondent to contravene a PPN if they have been served with the notice or a police officer has told them about the existence of the notice and the conditions. The intent is that a PPN will be enforceable in the same way as a DVO. It also amends section 178(2) to increase the maximum penalty for contravening a notice to 120 penalty units or three years imprisonment. This achieves consistency with the penalty under section 177(2)(b). The clause also inserts new subsection 178(4) that provides that the prosecution bears the onus of proving, beyond a reasonable doubt, that the respondent has been told by a police officer about the existence of a notice, or a condition of a notice.

Clause 46 increases the maximum penalty for the offence of contravening release conditions in section 179 to 120 penalty units or three years imprisonment, consistent with the increased penalty for contravening PPNs.

Clause 47 amends subsection 184(5) to provide that a police officer does not have to personally serve on a respondent a TPO that is between the same people as an existing PPN or release conditions and which imposes the same conditions as the notice or release conditions, as the TPO is taken to have been served on the respondent when it was made. These matters were previously set out in subsections 113(2) and (3) and subsection 125(6) of the Act. The clause also makes minor drafting changes to subsections 184(1) and (6) and the section 184 note.

Clause 48 amends section 192 to provide that the Act is to be reviewed as soon as practicable following the day that is five years after the commencement of section 47 of the *Domestic and Family Violence Protection and Other Legislation Amendment Act 2016*.

Clause 49 inserts a new Division 3 into Part 10 of the Act which sets out new sections 216 to 222. These provisions establish transitional arrangements for the amendments contained in this Bill.

The new section 216 sets out the definitions used in Part 10, Division 3.

The new section 217(1) applies the changes in the Bill to applications to make or vary DVOs, which were started before the Bill commenced and which have not been finalised prior to commencement. Section 217(2) clarifies that the changes to how courts consider respondents' compliance with intervention orders apply to intervention orders made before commencement.

The new section 218 clarifies that if a DVO is made before the Bill commences, the written explanation in the order is to include the matters set out in the version of section 85 that was in force when the order was made.

The new section 219 provides that if a PO made before commencement does not include an end date, the order ends two years after it is made unless it is varied to change its duration. The section clarifies that the amended section 97 of the Act applies to applications to vary the duration of POs that courts issued before commencement of the Bill.

The new section 220 provides that a voluntary intervention order in force immediately before commencement is taken to be an intervention order under the amended Act after commencement.

The new section 221 provides a police officer may issue a PPN under the amended Act where the domestic violence occurred or the respondent was taken into custody under the Act, before commencement of the Bill.

The new section 222 provides that a respondent may be released on conditions under the amended section 125 whether they were taken into custody before or after commencement.

Clause 50 removes definitions from the dictionary in the schedule to the Act that are no longer needed, inserts new definitions as required and updates two section numbers used in existing definitions.

Division 3 Amendments to implement national domestic violence orders scheme

Clause 51 replaces section 22(3) with a new section 22(3). This is a consequential amendment to reflect the recognition of interstate orders under Part 6, or New Zealand orders registered under Part 6, Division 4.

Clause 52 amends section 30(1) by replacing 'registered' with 'recognised'. This is a consequential amendment to reflect removal of the registration process for interstate orders and recognition of interstate orders when made or New Zealand orders when registered.

Clause 53 replaces the existing section 31 with a new section 31. The new section 31 provides that:

- an interstate order made is a recognised interstate order under Part 6 and enforceable under the Act
- a New Zealand order can be registered in Queensland under Part 6 or in another jurisdiction under a corresponding law; and if registered in Queensland, is a recognised interstate order under Part 6 and enforceable under the Act.

Clause 54 amends section 101(1)(c) by inserting the new terminology which addresses the automatic mutual recognition of interstate orders. This is a consequential amendment to include a recognised interstate order where DVO is mentioned.

Clause 55 amends section 110 to require police to also explain to respondents that a PO may be enforced in other Australian jurisdictions and New Zealand.

Clause 56 replaces section 162(1)(c)(i) and (ii) with a new section 162(1)(c)(i), (ii), (iii) and (iv) as a consequential amendment to reflect new terminology used.

Clause 57 replaces Part 6 with a new Part 6 to implement model laws and enable Queensland to participate in the NDVOS. This will provide for the mutual recognition of interstate orders made and New Zealand orders registered across Australia. The new Part 6 consists of six Divisions, comprising sections 170 to 176U.

Part 6 National recognition of domestic violence orders

Division 1 Preliminary

Section 170 provides that Part 6, in conjunction with corresponding laws across Australia, establishes the NDVOS.

Section 171 introduces a range of definitions for new terminology used in Part 6.

Section 172 provides that a *local order* means a DVO made (a PO or TPO) or a PPN or release conditions issued in Queensland.

Section 173 provides that an *interstate order* is an order made by a court or police officer of another Australian jurisdiction declared by regulation to be an interstate order.

Section 174 provides that a *registered foreign order* means a New Zealand order that is:
- a registered New Zealand order, or
- declared by regulation to be a registered foreign order.

Section 175 provides for the definition of *properly notified.* For an interstate or New Zealand order (made or registered, and varied) to be enforceable in another jurisdiction, the *properly notified* requirement needs to be met – that is, the order is required to be served.

In relation to the making of an order, each jurisdiction has agreed to adopt their service requirement for the purpose of defining *properly notified*.

What this mean is, for example, for a Queensland order to be enforceable in New South Wales, the relevant service requirement for the Queensland order needs to be met.

Section 175(1) sets out what the service requirement is for each type of Queensland domestic and family violence protection instrument.

Conversely, for a New South Wales order to be enforceable in Queensland, the relevant service requirement for the New South Wales order needs to be met (see section 175(2)).

In relation to the variation of a recognised interstate order, each jurisdiction has agreed to adopt the service requirement of the jurisdiction in which the variation is done for the purpose of defining *properly notified*.

What this mean is, for example, for a New South Wales order varied in Queensland to be enforceable in Queensland, the relevant service requirement for varying an order in Queensland needs to be met.

Section 175(3) sets out what the service requirement is for varying a recognised interstate order in Queensland.
Conversely, for a Queensland order varied in New South Wales to be enforceable in New South Wales, the relevant service requirement for varying an order in New South Wales needs to be met (see section 175(4)).

Section 175(5) provides that a registered foreign order is *properly notified*: when it is registered under Part 6 Division 4 (see section 176M(1)(b)), or under the corresponding law of the jurisdiction where it is registered.

Section 176 sets out special provisions for registered foreign orders for the purposes of part 6.
Section 176(1)(a) provides a registered foreign order is taken to be made in the jurisdiction in which it is registered. For example, a New Zealand order registered in Queensland is taken to be a registered foreign order made in Queensland.

Section 176(1)(b) provides a registered foreign order is taken to be made when it becomes a registered foreign order in that jurisdiction. For example, a New Zealand order registered in Queensland is taken to be made when it is registered in Queensland.

Section 176(2) provides a registered foreign order is taken to be varied or revoked for the purposes of part 6, if its registration as a registered foreign order is varied or revoked.

Division 2 National recognition of DVOs

Subdivision 1 General principles

Section 176A sets out what orders are recognised interstate orders.

Section 176A(1) provides an interstate order made in a participating jurisdiction or a registered foreign order registered in a participating jurisdiction is a recognised interstate order. A DVO made and a PPN issued in Queensland are treated as recognised interstate orders, under the corresponding law of other participating jurisdictions.

Section 176A(2) provides an interstate order or registered foreign order becomes a recognised interstate order when it is made in a participating jurisdiction, and remains a recognised interstate order while it is in force in the jurisdiction it was made.

Section 176B establishes the principle that a new recognised interstate order prevails over and ends a comparable recognised interstate or local order made earlier.

However, the earlier order continues to be a recognised interstate or local order to the extent it relates to a person not protected under the new order. Further, a PPN will not prevail over

an existing DVO (see section 176B(5)).

Section 176C provides that notwithstanding the existence of a recognised interstate order, a person can still apply for (or a court can make) an order that applies to the same respondent. However, this provision limits police from issuing a PPN when a recognised interstate order against the respondent exists.

Subdivision 2 Enforcement of recognised interstate orders

Section 176D sets out when a recognised interstate order is enforceable.

Section 176D(1) provides a recognised interstate order that has been properly notified under the law of the jurisdiction in which it was made has the same effect as a local order and can be enforced against a respondent.

Note: a New Zealand order is taken to be properly notified and becomes enforceable upon being registered in a participating jurisdiction (see section 175(5)).

Section 176D(2) provides a recognised interstate order varied in a participating jurisdiction and has been properly notified under the laws of the jurisdiction in which it was varied can be enforced against a respondent.

Section 176D(3) provides a local order varied in another jurisdiction and properly notified under the laws of the jurisdiction in which it was varied can be enforced against a respondent.

Section 176D(4) provides a prohibition, restriction or condition imposed by a recognised interstate order has the same meaning as in the jurisdiction the order was made and may be enforced as if it were a prohibition, restriction or condition of a local order.

Section 176E provides how a maximum penalty for an offence of contravening a recognised interstate order is worked out. A previous contravention of a recognised interstate order that constituted an offence is to be treated as a previous offence of contravening a local order.

Section 176F provides that if a law of Queensland (for example, *Weapons Act 1990*) restricts, suspends or revokes the grant of an authorisation for a respondent named in a local order, this extends to the respondent named in a recognised interstate order.
Section 176G sets out the parameters for payment of money and award of costs. Section 176G(1) provides that a requirement for the payment of money in a recognised interstate order cannot be enforced in Queensland.

Section 176G(2) provides the recognition of an order made in another jurisdiction does not confer power on a Queensland court to award costs for any proceedings relating to the order that occurred in another jurisdiction. However, section 176G(3) allows a Queensland court to award costs for proceedings in Queensland related to varying a recognised interstate order.

Division 3 Variation and revocation of recognised interstate orders

Section 176H provides a court with the power to vary a recognised interstate order (of a kind that can be varied by the issuing jurisdiction) under this division as if the order were a Queensland order (see sections 176H(1) and 176H(2)).

This means that an application in Queensland for a variation of an order made in another jurisdiction or for a variation of a New Zealand order registered in another jurisdiction, is to be dealt with as though the application is an application for a variation of a Queensland order under part 3 division 10, variations of DVOs (and see section 176I).

Section 176H(3) provides a variation made to a recognised interstate order in Queensland will be recognised in other jurisdictions.

However, section 176H(4) provides this division does not apply to the variation of a New Zealand order registered in Queensland under part 6 division 4.
This means a New Zealand order registered in Queensland will be varied in Queensland by following the process in sections 176P and 176Q.

Section 176I clarifies the process to vary a recognised interstate order (set out in section 176H(1) and (2)) pursuant to part 3 division 10.

Section 176J sets out a number of matters a court may consider in deciding whether or not to hear a variation application.

In making this decision, the court must consider the principles mentioned in section 4.

Section 176K provides a court revokes a recognised interstate order by:
- section 176K(1)(a): stating an end date for an order without an end date
- section 176K(1)(b): stating an earlier end date.

Division 4 Registration, and variation and revocation of registration, of New Zealand orders

Under the NDVOS, interstate orders will be automatically recognised when made, and the manual registration process will no longer be necessary.

However, the manual registration and variation processes for New Zealand orders registered or varied in Queensland will be retained.

As such, this division replicates its predecessor part 6 (Registration of interstate orders) sections 170 to 173 and 175 to 176, and replaces it with division 4 (Registration, and variation and revocation of registration, of New Zealander orders) sections 176L to 176Q.

Section 176L allows a person to apply to the clerk of the court in Queensland to register a New Zealand order.

Section 176M provides that before registering a New Zealand order, the clerk must be satisfied that the order is in force by obtaining a certified copy, and that it has been served on the respondent pursuant to the *Domestic Violence Act 1996 (NZ).*

Section 176N sets out the process for registering a New Zealand order:
- section 176N(1): the clerk must register the order if satisfied about the requirements in section 176M(1)
- section 176N(2): if necessary, the clerk may refer the order to the court for adaptation or

modification
- section 176N(3) and (4): for its effective operation in Queensland, the court may adapt or modify the order, and the clerk must then register the order
- section 176N(5): the order is registered for the period it was originally made.

Section 176O sets out the duties of the clerk of the court after a New Zealand order is registered:
- section 176O(1): within 2 business days after registration, the clerk must give a certificate of registration and a copy of the order to the applicant and police commissioner
- section 176O(2) and (3): the clerk must not give notice of the registration to the respondent unless the aggrieved consents in writing.

Section 176P sets out the process to make an application to vary or revoke a New Zealand order registered in Queensland. Section 176P(1) provides that an application can be made to a court to vary the New Zealand order as it is registered in Queensland, vary the period of its operation in Queensland, or revoke the registration of the order. Section 176P(2) sets out who can apply for a variation. Section 176P(3) sets out what the court can do.

A variation done under section 176P for a New Zealand order registered in Queensland will be recognised in another jurisdiction (see section 176D(2)).

Section 176Q sets out service implications for an application for the registration or variation of a New Zealand order in Queensland. Section 176Q(1) provides an applicant need not give notice to a respondent of such an application.

Section 176Q(2) provides where notice of an application has not been given to the respondent, the court:
- section 176Q(2)(a): may hear and decide the application in the absence of the respondent, and
- section 176Q(2)(b): must not refuse to hear and decide the application merely because the respondent has not been given notice.

Section 176Q(3) provides that any adaptation or modification made under section 176N(3) is enforceable in Queensland without notice being given to the respondent. Section 176Q(4) provides that the applicant is not prevented from giving notice to the respondent.

Division 5 Exchange of information

Section 176R allows prescribed persons to obtain information about a DVO from an issuing authority of another jurisdiction or interstate law enforcement agency, and use that information to exercise its functions under this part or for a law enforcement purpose.

Section 176S provides that the clerk of the court must provide information requested about:
- section 176S(1) a DVO to a court of another jurisdiction to exercise its functions under a corresponding law
- section 176S(2) the making or varying of a DVO to an interstate law enforcement agency to exercise its law enforcement functions.

Section 176T provides that the police commissioner must provide information requested

about a DVO to an interstate law enforcement agency for the purpose of exercising its law enforcement functions.

Division 6 Miscellaneous

Section 176U sets out the evidentiary provisions in relation to a certification by the police commissioner or clerk of the court that the making or variation of an order has been properly notified.

Clause 58 replaces section 177(6) with a new section 177(6) as a consequential amendment to reflect new terminology used.

Clause 59 inserts a definition for *amended part 6* in section 216 to mean the new part 6 with amendments to give effect to the NDVOS and clarifies that terms used in Part 10, subdivision 3 have the same meaning as they have in Part 6.

Clause 60 inserts a new part 10 division 3, subdivisions 3 and 4, which set out new provisions 223 to 228. These provisions establish transitional arrangements for the NDVOS.

Section 223 provides the amended part 6 applies to a DVO made or PPN or release conditions issued in Queensland:

- section 223(1)(a): after commencement of the amended part 6
- section 223(1)(b): before commencement of the amended part 6 that is then declared in Queensland to be a recognised interstate order under section 225
- section 223(1)(c): that is declared in another jurisdiction to be a recognised interstate order.

Section 224 provides the amended part 6 applies to an interstate order:

- section 224(1)(a): made in another jurisdiction after commencement of their NDVOS provisions
- section 224(1)(b):
  - declared in Queensland to be a recognised interstate order under section 225, or
  - declared in another jurisdiction to be a recognised interstate order.

Section 225 provides the process for a court to declare a DVO, PPN or release conditions to be a recognised interstate order to which amended part 6 applies.

Section 226 provides a person can apply for a declaration under section 225 if they would be able to apply for a variation for the order.

Section 227 provides how an interstate order (including a New Zealand order) that was registered under the previous part 6 before commencement of the amended part 6 will be dealt with after commencement of the amended part 6.

Section 227(2) provides a registered interstate order will continue to be enforceable against a respondent in Queensland. Section 227(3) provides the registered interstate order will be in force for the duration of the order.

This means an interstate order or New Zealand order registered in Queensland prior to

commencement of the amended part 6 is enforceable only in Queensland and not in other jurisdictions. To be enforceable in other jurisdictions, it needs to be declared in Queensland or another jurisdiction.

Section 227(4) provides the amended part 6 division 4 applies to a registered interstate order as though a reference in the amended part 6 division 4 to a *registered New Zealand order* is to be read as a reference to *registered interstate order.*

This means:
- the registered interstate order is to be adapted or modified pursuant to section 176N(2) to (6)
- the duty of a clerk of the court applies under section 176O
- the registered interstate order is to be varied or revoked under sections 176P and 176Q.

Section 227(5) provides section 176P applies in relation to an application for a variation or revocation of a registered interstate order.

Section 228 provides if upon commencement of the amended part 6, an application to register a New Zealand order under section 170 has not been finalised, section 176N will apply instead.

Clause 61 removes the definitions of *interstate order*, *registered interstate order* and *variation application* in schedule (Dictionary), and introduces a range of definitions for new terminology used in part 6.

Part 3 Amendment of the *Police Powers and Responsibilities Act 2000*

Clause 62 provides that this part amends the *Police Powers and Responsibilities Act 2000*.

Clause 63 amends section 610 that applies when a respondent named in a DVO has to surrender their weapon to police pursuant to the provisions of the *Weapons Act 1990.* The amendments ensure section 610 applies when a respondent named in a PPN or release conditions has to surrender their weapon to police under the changes to the Weapons Act set out in Part 4 of the Bill.

Clause 64 updates the definition of 'appointed day' in section 715 to refer to the issuing of a PPN or release conditions in the sub-section that currently refers to the making of a DVO.

Clause 65 updates definitions in the dictionary in Schedule 6 in light of the changes made in Parts 2 and 3 of the Bill.

Part 4 Amendment of the *Weapons Act 1990*

Clause 66 provides that this part amends the *Weapons Act 1990*.

Clause 67 amends subsection 10B(1)(b) so that in deciding whether a person is a fit and proper person to hold a license, an authorised officer must also consider whether a PPN or release conditions have been made against the person.

Clause 68 amends section 27A to provide that if a licensee is named as the respondent in a PPN or release conditions, their licence is suspended while the PPN or conditions are in force — in the same way as when a court issues a TPO.

Clause 69 amends section 29A to also apply the section to situations where licensees are named as respondents in PPNs or release conditions. Accordingly, if a PPN or conditions are issued and a respondent's license is suspended and an authorised officer reasonably considers the respondent has access to a weapon as part of their employment, the officer must consider certain things and disclose the PPN or conditions to an effective individual within the employing entity to ensure the respondent does not possess a weapon as part of their employment.

Clause 70 amends section 29B so that the arrangements for the surrender of weapons and licences that apply when courts issue DVOs and respondents have a weapons licence, also apply when police issue PPNs or release conditions and respondents have a licence.

Clause 71 amends section 53 to prevent respondents who currently have a PPN or release conditions against them from using weapons at approved ranges.

Clause 72 amends definitions in the dictionary in Schedule 2 in light of the changes made in Part 2 of the Bill.

Part 5 Amendment of Acts

Clause 73 provides that Schedule 1 of the Bill amends the Acts it mentions.

Schedule 1 Acts amended

Births, Deaths and Marriages Registration Act 2003
This clause updates a reference to the Act and to reflect the changes in Part 2, Division 3 of the Bill.

Corrective Services Act 2006
This clause updates a reference to the Act.

Dispute Resolution Centres Act 1990
This clause updates a reference to the Act.

Domestic and Family Violence Protection Act 2012
These clauses make minor changes to update terminology, notes and cross-references in light of the changes made by the Bill.

Explosives Act 1999
This clause updates a reference to the Act and to reflect the changes in Part 2, Division 3 of the Bill.

Police Powers and Responsibilities Act 2000

These clauses update references to the Act and to reflect the changes in Part 2, Division 2 of the Bill.

Tow Truck Act 1973

This clause updates a reference to an interstate order in light of the changes in Part 2, Division 3 of the Bill.