

FACT SHEET

Domestic Violence Orders (National Recognition) Bill 2016

The Domestic Violence Orders (National Recognition) Bill 2016 provides a framework for the automatic recognition and enforcement of all family or domestic violence orders (DVO) made in Australia, including any New Zealand DVOs that are registered in Australia.

The proposed provisions in this Bill are designed to provide a seamless national recognition and enforcement scheme and increase protection for victims of family or domestic violence across Australian borders by removing the need for individuals to negotiate the varied cross-jurisdictional mutual recognition processes to manually register their DVO in a new jurisdiction.

The Bill has been drafted in accordance with the following four policy principles:

1. a DVO made anywhere in Australia or New Zealand DVO registered anywhere in Australia is nationally recognised and enforceable;
2. a DVO that is nationally recognised can be amended in any jurisdiction, but only by a court;
3. if a DVO made in one jurisdiction is in force, a new order can (if necessary) be made in another jurisdiction, but only by a court; and
4. the latest DVO in time prevails.

The proposed Bill gives effect to the National Domestic Violence Order Scheme model laws in Tasmania and reflects the policy principles stated above to enable the national recognition of DVOs. The Bill only covers DVOs made in connection with family or domestic violence.

The Bill:

- defines the Tasmanian family violence protection orders made by courts and police, domestic violence orders of other jurisdictions and foreign orders recognised under the national recognition scheme;
- provides that the only foreign orders that are to be recognised under the national recognition scheme are New Zealand DVOs;
- clarifies that general violence orders will only be recognised if they address a domestic violence concern and limits the scope of recognition of orders from South Australia and Western Australia to orders that are made to address a domestic violence concern;
- provides that all DVOs made in participating jurisdictions are to be recognised under this Bill. A recognised DVO in Tasmania means a DVO made here, such as a family violence order, interim family violence order or a police family violence order, a DVO made in another participating jurisdiction which has enacted corresponding laws, or a New Zealand DVO registered in any participating jurisdiction;

- states that any DVO that is recognised can be varied or revoked by a court in any participating jurisdiction;
- sets out leave provisions for the variation and revocation of non-local DVOs;
- specifies that a police issued DVO, which is a police family violence order (or a PFVO) in Tasmania, cannot override a court DVO made for the same defendant and protected person;
- clarifies that although a person is not prevented from applying for a new DVO in Tasmania, a police officer is not to make a PFVO in Tasmania if that police officer is aware that there is already a recognised DVO made by another court in another jurisdiction for the same defendant and protected person;
- provides that a recognised DVO, or a variation to a recognised DVO, is only enforceable against the defendant in Tasmania once the defendant has been properly notified of the DVO under the law of the jurisdiction in which the DVO was made;
- specifies that a contravention of a DVO is recognised in all participating jurisdictions. Therefore, a contravention of a non-local DVO (being an interstate DVO or a foreign DVO) that is a recognised DVO in Tasmania under the national recognition scheme may be enforced in Tasmania as if it were a Tasmanian DVO;
- provides that a recognised DVO is treated the same as a local DVO for the purposes of any law in Tasmania that provides for the consequences of the making of a local DVO, for example, if the making of a local DVO is grounds for cancellation or suspension of a firearms licence, the making of a recognised DVO in another participating jurisdiction is also grounds for cancellation or suspension of a firearms licence;
- sets out the principles relating to the exchange of information between jurisdictions for the purpose of enforcing DVOs;
- provides for a certificate to be issued stating that the making of, or the variation to, a DVO has been properly notified in Tasmania or another jurisdiction;
- specifies a number of consequential amendments to other Acts such as the *Bail Act 1994*, *Family Violence Act 2004*, *Firearms Act 1996*, *Justices Act 1959*, *Police Offences Act 1935*, *Residential Tenancy Act 1997* and *Sentencing Act 1997* to ensure recognised DVO under the national recognition scheme are considered Tasmanian law;
- will apply prospectively to any Tasmanian DVO made in Tasmania or New Zealand DVO registered in Tasmania on or after the commencement date;
- provides for DVOs made before the commencement of the scheme to be recognised nationally through a declaration process. The declaration process requires a person to

apply to a clerk of petty sessions to have their DVO declared to be a recognised DVO under the national recognition scheme; and

- specifies that a DVO can be declared to be 'recognised' in Tasmania even if the DVO was made in a jurisdiction that is not a participating jurisdiction.