

South Australia

# **Intervention Orders (Prevention of Abuse) (Recognition of National Domestic Violence Orders) Amendment Act 2017**

An Act to amend the *Intervention Orders (Prevention of Abuse) Act 2009*.

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**The Parliament of South Australia enacts as follows:**

**Part 1—Preliminary**

**1—Short title**

This Act may be cited as the *Intervention Orders (Prevention of Abuse) (Recognition of National Domestic Violence Orders) Amendment Act 2017*.

**2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

**3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009***

### **4—Amendment of section 3—Interpretation**

Section 3(1)—after the definition of *domestic partner* insert:

*domestic violence concern*—see sections 15A and 29C;

### **5—Insertion of section 15A**

After section 15 insert:

#### **15A—Declaration that intervention order addresses domestic violence concern**

- (1) Whenever an issuing authority issues an intervention order, the issuing authority must decide whether the order addresses a domestic violence concern.
- (2) If the order does address a domestic violence concern, the issuing authority must declare the order to be an order that addresses a domestic violence concern.
- (3) The declaration must be included in the order.
- (4) An intervention order will be taken to address a domestic violence concern for the purposes of Part 3A if the order is made because the defendant has committed, or because it is feared the defendant will commit, an act of domestic abuse.

### **6—Amendment of section 21—Preliminary hearing and issue of interim intervention order**

- (1) Section 21(8)—delete "personally or in some other manner authorised by the Court" and substitute:

in accordance with this section
- (2) Section 21—after subsection (8) insert:
  - (8a) For the purposes of subsection (8), an interim intervention order is served on the defendant if—
    - (a) the order is served on the defendant personally; or
    - (b) the order is served on the defendant in some other manner authorised by the Court; or
    - (c) the defendant is present in the Court when the order is made.

### **7—Amendment of section 23—Determination of application for intervention order**

- (1) Section 23(5)—delete "personally or in some other manner authorised by the Court" and substitute:

in accordance with this section

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(2) Section 23—after subsection (5) insert:

- (5a) For the purposes of subsection (5), a final intervention order is served on the defendant if—
- (a) the order is served on the defendant personally; or
  - (b) the order is served on the defendant in some other manner authorised by the Court; or
  - (c) the defendant is present in the Court when the order is made.

**8—Amendment of section 24—Problem gambling order**

(1) Section 24(2)—delete "personally or in some other manner authorised by the Court" and substitute:

in accordance with this section

(2) Section 24—after subsection (2) insert:

- (2a) For the purposes of subsection (2), a problem gambling order is served on the defendant if—
- (a) the order is served on the defendant personally; or
  - (b) the order is served on the defendant in some other manner authorised by the Court; or
  - (c) the defendant is present in the Court when the order is made.

**9—Amendment of section 26—Intervention orders**

(1) Section 26(7)—delete "personally or in some other manner authorised by the Court" and substitute:

in accordance with this section

(2) Section 26—after subsection (7) insert:

- (7a) For the purposes of subsection (7), an order in its amended form is served on the defendant if—
- (a) the order is served on the defendant personally; or
  - (b) the order is served on the defendant in some other manner authorised by the Court; or
  - (c) the defendant is present in the Court when the order is made.

## 10—Insertion of Part 3A

After Part 3 insert:

### **Part 3A—National recognition of domestic violence orders**

#### **Division 1—Preliminary**

##### **29A—Interpretation**

In this Part, unless the contrary intention appears—

*corresponding law* means a law, or part of a law, of a State or a Territory of the Commonwealth declared by the regulations to be a corresponding law for the purposes of this Part;

*domestic violence order* or *DVO* means a local DVO, an interstate DVO or a foreign intervention order;

*foreign intervention order* does not include an order (whether registered or not under Part 4) that is declared by the regulations not to be a foreign intervention order for the purposes of this Part;

*general violence order* means—

- (a) an intervention order under this Act; or
- (b) a violence restraining order under the corresponding law of Western Australia, other than an order under that corresponding law declared by the regulations not to be a general violence order for the purposes of this paragraph;

*interim DVO* means a DVO that is of an interim or a provisional nature and includes—

- (a) an interim intervention order under this Act; and
- (b) a DVO made by a police officer under a corresponding law; and
- (c) an emergency order made under the corresponding law of the Australian Capital Territory; and
- (d) a temporary protection order made under the corresponding law of Queensland; and
- (e) a DVO declared by the regulations to be an interim DVO;

*interstate DVO* means an order, or order of a type, made under a corresponding law that is declared by the regulations to be an interstate DVO for the purposes of this Part;

*interstate law enforcement agency* means—

- (a) a police force of a participating jurisdiction; or
- (b) an agency of a participating jurisdiction responsible for enforcing DVOs in that jurisdiction;

*issuing authority* includes a court or person with power to make, vary or revoke a DVO under the law of a participating jurisdiction;

*issuing jurisdiction*, in respect of a DVO, means the jurisdiction in which the DVO is made;

*local law enforcement agency* means South Australia Police;

*local DVO*—a reference to a *local DVO* is a reference to an intervention order (within the meaning of section 3(1)) that addresses a domestic violence concern;

*make* includes issue;

*non-local DVO* means an interstate DVO or a foreign intervention order;

*participating jurisdiction* means this jurisdiction or a jurisdiction in which a corresponding law is in force;

*properly notified*—see section 29J;

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

*recognised DVO*—see section 29D;

*registered foreign order*—see section 29B;

*revoke* includes cancel.

## **29B—Registered foreign orders**

- (1) A *registered foreign order* means a foreign order that is—
  - (a) a foreign intervention order registered under Part 4; or
  - (b) an order declared by the regulations to be a registered foreign order for the purposes of this Part.
- (2) A registered foreign order is neither a local DVO nor an interstate DVO.
- (3) For the purpose of this Part, a registered foreign order—
  - (a) will be taken to be made in the jurisdiction in which it is registered as a registered foreign order; and
  - (b) will be taken to be made when it becomes a registered foreign order in that jurisdiction; and
  - (c) will be taken to have been varied or revoked if its registration as a registered foreign order is varied or revoked.
- (4) A power conferred by this Part to vary or revoke a registered foreign order is a power to vary or revoke registration of the order as a registered foreign order.

## 29C—Domestic violence concern

- (1) A violence restraining order under the corresponding law of Western Australia will be taken to address a domestic violence concern for the purposes of this Part if the order is made because the defendant has committed, or because it is feared the defendant will commit, an act of family and domestic violence (within the meaning of that corresponding law).
- (2) A general violence order will be taken to be an order that addresses a domestic violence concern for the purposes of this Part if—
  - (a) it is declared to be an order that addresses a domestic violence concern by the issuing authority that makes the order; or
  - (b) a registrar of a court of the jurisdiction in which the order was made makes an order declaring the DVO to be a recognised DVO in that jurisdiction.
- (3) The Governor may make regulations for the purposes of this section including so as to modify what may be taken to address a domestic violence concern in a participating jurisdiction.

## Division 2—National recognition of DVOs

### Subdivision 1—General principles

#### 29D—Recognition of DVOs

- (1) In this jurisdiction, each of the following DVOs is a *recognised DVO*:
  - (a) a local DVO;
  - (b) an interstate DVO made in another participating jurisdiction;
  - (c) a foreign order that is a registered foreign order in any participating jurisdiction.
- (2) A DVO becomes a recognised DVO when it is made.

**Note—**

A foreign order will be taken to be made when it is registered as a registered foreign order.

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

#### 29E—Variations to DVOs

- (1) A variation to a recognised DVO that is done in this or another jurisdiction is a *recognised variation* in this jurisdiction in the circumstances provided for by this section.

- (2) A variation to a local DVO is a recognised variation in this jurisdiction if the variation is done—
  - (a) in this jurisdiction by a court or any other person authorised to do so under this Act; or
  - (b) in another participating jurisdiction by a court under a corresponding law.
- (3) A variation to an interstate DVO or foreign order is a recognised variation in this jurisdiction if the variation is done—
  - (a) in the issuing jurisdiction by a court or any other person authorised to do so under the law of the issuing jurisdiction; or
  - (b) in any participating jurisdiction by a court under this Part or a corresponding law.

**Note—**

The issuing jurisdiction for a foreign order is the jurisdiction in which the order is registered.

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

**29F—Revocation of recognised DVO**

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

**29G—Recognised DVO prevails over earlier comparable DVOs**

- (1) A recognised DVO that is enforceable against a defendant in this jurisdiction (a *new DVO*) supersedes—
  - (a) any comparable recognised DVO made earlier than the new DVO; and
  - (b) any comparable local DVO made earlier than the new DVO (whether or not the local DVO is a recognised DVO).

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

#### **29H—Making of new orders**

- (1) Nothing in this Part prevents a person from applying for, or an issuing authority from making, a local DVO even though there is a recognised DVO in force that applies to the same defendant.
- (2) However, a police officer is not to make a local DVO if the police officer is aware that there is already a recognised DVO that is enforceable against the defendant which—
  - (a) applies to the same defendant and protected person; and
  - (b) was made by a court of any jurisdiction.

#### **Subdivision 2—Enforcement of recognised DVOs**

##### **29I—Recognised DVOs and variations are enforceable against defendant**

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

- (5) A recognised variation to a recognised DVO becomes enforceable against the defendant in this jurisdiction when the defendant is properly notified of the variation under the law of the jurisdiction in which the variation is done.

### **29J—Properly notified—meaning**

- (1) The making of a local DVO is *properly notified* under this Act if—
  - (a) a copy of the DVO is served on the defendant personally or in some other manner authorised by the Court; or
  - (b) the DVO is made by the Court and the defendant is present in the Court when the DVO is made.
- (2) The making of an interstate DVO is *properly notified* under the law of the jurisdiction in which it is made in the circumstances provided for by the corresponding law of that jurisdiction.
- (3) A variation to a recognised DVO that is done in this jurisdiction is *properly notified* under this Act if—
  - (a) a copy of the variation is served on the defendant personally or in some other manner authorised by the Court; or
  - (b) the variation is done by the Court and the defendant is present in the Court when the DVO is varied.
- (4) A variation to a recognised DVO that is done in another jurisdiction is *properly notified* under the law of that jurisdiction in the circumstances provided for by the corresponding law of that jurisdiction.

### **29K—Contravention of enforceable recognised DVO**

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

### **Subdivision 3—Enforcement of non-local DVOs**

#### **29L—Non-local DVO to be treated as local DVO**

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

#### **29M—Licences, permits and other authorisations**

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

*authorisation* includes a licence or permit;  
*grant* includes issue.

#### **29N—Recognition of disqualification to hold firearms licence**

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

- (4) In this section—

*local firearms licence* means a licence, permit or other authorisation under the *Firearms Act 1977* or the *Firearms Act 2015*;

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

## **29O—Orders for costs**

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

## **Division 3—Variation and revocation of recognised non-local DVOs**

### **29P—Power of Court to vary or revoke recognised non-local DVOs**

- (1) The Court may vary or revoke a recognised DVO that is a non-local DVO in accordance with this Division as if the DVO were a local DVO.
- (2) The Court cannot vary or revoke a non-local DVO if it is a kind of DVO that cannot be varied or revoked by a court in the jurisdiction in which the DVO was made.
- (3) A variation to or revocation of a recognised DVO that is done under this Division is not limited in its operation to this jurisdiction.
- (4) This Division does not apply to the variation or revocation of a foreign order that is registered as a registered foreign order in this jurisdiction.
- (5) To avoid doubt, if the Court varies a recognised DVO that was made in another jurisdiction, the other jurisdiction continues to be treated, for the purposes of this Part, as the jurisdiction in which the DVO was made.

### **29Q—Application for variation or revocation of recognised non-local DVO**

- (1) An application for the variation or revocation of a recognised DVO that is a non-local DVO may be made to the Court as if it were an application for variation or revocation of a local DVO by a person who would be able to make the application if the DVO were a local DVO.
- (2) An application—
  - (a) is to be made in accordance with any requirements that would apply if the DVO were a local DVO; and
  - (b) may be dealt with (subject to this Division) as if the DVO were a local DVO.

### **29R—Decision about hearing of application**

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

- (4) For the purpose of exercising its functions under this Division, the Court may have regard to any information that the Court considers relevant about the making or variation of a DVO that is provided by an issuing authority of any other jurisdiction.

**Note—**

Division 4 enables the court to obtain information about DVOs from other jurisdictions.

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

## **Division 4—Exchange of information**

### **29S—Issuing authorities may obtain DVO information**

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

### **29T—Issuing authorities must provide DVO information**

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

### **29U—Law enforcement agencies may obtain DVO information**

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

## **29V—Information to be provided to law enforcement agencies**

A local law enforcement agency must provide to an interstate law enforcement agency any information it holds about a DVO that the interstate law enforcement agency reasonably requests for the purpose of exercising its law enforcement functions.

## **Division 5—Miscellaneous**

### **29W—Certificate evidence—notification**

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

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

*authorised officer* of this jurisdiction means—

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

## **Division 6—Transitional provisions**

### **Subdivision 1—Preliminary**

#### **29X—Interpretation**

In this Division—

*commencement date* means the date on which this Part commences.

#### **29Y—Enforcement of DVOs under other provisions**

- (1) Subject to subsection (3), this Part does not affect the enforceability in this jurisdiction, otherwise than under this Part, of any local DVO made before the commencement date.
- (2) Subject to subsection (3), this Part does not affect the enforceability in this jurisdiction, otherwise than under this Part, of any interstate DVO or foreign order registered in this jurisdiction, before the commencement date, under Part 4.
- (3) However, a DVO made in this jurisdiction before the commencement date can be superseded under section 29G, on or after the commencement date, by a recognised DVO that is made later.

### **Subdivision 2—DVOs to which scheme applies**

#### **29Z—DVOs made in this jurisdiction**

Division 2 applies to any local DVO or foreign DVO that is made in this jurisdiction on or after the commencement date.

#### **29ZA—DVOs made in other jurisdictions**

- (1) Division 2 applies to any DVOs made in another participating jurisdiction that are recognised DVOs in that jurisdiction under the corresponding law for that jurisdiction.
- (2) To avoid doubt, section 29D extends to the following DVOs:
  - (a) any interstate DVO that was made in another participating jurisdiction before the commencement date that is a recognised DVO in that jurisdiction;
  - (b) any foreign order that became a registered foreign order in another participating jurisdiction before the commencement date that is a recognised DVO in that jurisdiction.
- (3) Sections 29E and 29F extend to any variation or revocation of a DVO referred to in subsection (2), that was done in a participating jurisdiction before the commencement date, as if the DVO were a recognised DVO.

- (4) However, a non-local DVO, and any variation to a non-local DVO, does not become enforceable against the defendant in this jurisdiction, under this Part, until the commencement date (even if the making of the DVO, or variation, was properly notified before that date).

### **Subdivision 3—Extension of scheme to older DVOs**

#### **29ZB—DVOs declared to be recognised DVOs**

- (1) Each of the following DVOs is also taken to be a *recognised DVO*:
  - (a) a DVO that is declared by the Court to be a recognised DVO in this jurisdiction under Subdivision 4;
  - (b) a DVO that is declared by a registrar of a court of another participating jurisdiction to be a recognised DVO in that jurisdiction under a corresponding law.
- (2) A recognised DVO referred to in subsection (1) becomes enforceable against the defendant in this jurisdiction, under this Part, when the declaration is made (despite section 29H).

#### **29ZC—DVOs declared to be recognised in other jurisdictions before commencement date**

- (1) To avoid doubt, section 29ZB extends to a DVO declared by a registrar of a court of another participating jurisdiction to be a recognised DVO before the commencement date.
- (2) Sections 29E and 29F extend to any variation or revocation of a DVO referred to in subsection (1), that was done in a participating jurisdiction before the commencement date, as if the DVO were a recognised DVO.
- (3) However, the DVO, and any variation to the DVO, does not become enforceable against the defendant in this jurisdiction, under this Part, until the commencement date.

### **Subdivision 4—Power to declare DVO to be recognised**

#### **29ZD—Power to declare DVO to be recognised**

- (1) The Court may, by order, declare any DVO made in any jurisdiction to be a recognised DVO in this jurisdiction.
- (2) A declaration may be made in relation to any DVO made in any jurisdiction that is in force in the issuing jurisdiction and is not a recognised DVO in this jurisdiction.
- (3) The jurisdiction in which the DVO was made does not have to be a participating jurisdiction.
- (4) The Court must make a declaration under this section if an application for the declaration is made in accordance with this Subdivision, unless the Court decides to refuse to make the declaration in the interests of justice.

- (5) Without limiting subsection (4), the Court may refuse to make the declaration if not satisfied that the defendant has been properly notified of the making of the DVO under the law of the jurisdiction in which the DVO was made.

**Note—**

Under section 29ZB, the DVO becomes enforceable against the defendant when the declaration is made. Notice of the declaration is not to be served on the defendant unless the person making the application consents to service.

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

**Note—**

Under section 29B, a foreign order is taken to be made in any jurisdiction in which it is registered as a registered foreign order. Accordingly, this section extends to registered foreign orders.

### **29ZE—Application for order**

- (1) An application for a declaration that a DVO is a recognised DVO in this jurisdiction may be made by any person who would be able to make an application for variation of the DVO if the DVO were a recognised DVO.
- (2) The application must be made in accordance with the rules of the Court.

**Note—**

It is only necessary to make an application in 1 participating jurisdiction. Under section 29ZB, once a declaration is made in any participating jurisdiction, the DVO will be treated as a recognised DVO in all participating jurisdictions.

### **29ZF—Declarations relating to general violence orders**

- (1) An application for a declaration that a general violence order is a recognised DVO may be made as if the order were a DVO.
- (2) Before making the declaration, the Court must decide whether the order addresses a domestic violence concern (and, accordingly, is a DVO).
- (3) The Court is not to make the declaration unless the Court decides that the order addresses a domestic violence concern.