

South Australia

Workplace Protection (Personal Violence) Act 2025

An Act to protect people from personal violence in the workplace, to make a related amendment to the *Youth Court Act 1993* and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Workplace Protection (Personal Violence) Act 2025*.

2—Commencement

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

3—Objects of Act

The objects of this Act include—

- (a) to prevent and reduce personal violence in workplaces; and
- (b) to facilitate the safety and protection of people who fear or experience personal violence at work by providing a legally enforceable mechanism to prevent personal violence; and
- (c) to encourage perpetrators of personal violence to be accountable for their conduct; and
- (d) to allow for the resolution of conflict without the need for adjudication.

4—Interpretation

- (1) In this Act—

affected person, in relation to personal violence at a workplace, means any of the following people against whom personal violence has been, or is likely to be, committed:

- (a) an employee at the workplace;
- (b) the employee's employer;
- (c) any other person in the workplace;

Court means the Magistrates Court of South Australia;

defendant means a person—

- (a) in relation to whom an application for a workplace protection order has been made; or
- (b) against whom a protection order has been made;

employer means someone who engages an individual—

- (a) under a contract of service; or
- (b) under a contract for services; or
- (c) under an apprenticeship; or
- (d) under an approved training contract under the *South Australian Skills Act 2008*; or
- (e) to work as a volunteer;

employer association means an employer association that is registered, or taken to be registered, under the *Fair Work (Registered Organisations) Act 2009*;

health and safety representative has the same meaning as in the *Work Health and Safety Act 2012*;

interim workplace protection order means an interim workplace protection order under section 8;

intervention order means an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*;

personal violence means any of the following behaviour by a person in relation to another person:

- (a) physical violence or abuse;
- (b) sexual violence or abuse;
- (c) threatening behaviour;
- (d) stalking;
- (e) harassing, intimidating or offensive behaviour;
- (f) damaging property;

Principal Registrar means the Principal Registrar of the Court;

protected person means a person protected under a workplace protection order or interim workplace protection order;

protection order means—

- (a) a workplace protection order; or
- (b) an interim workplace protection order;

union means—

- (a) an employee organisation that is registered, or taken to be registered, under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth; or
- (b) an association of employees or independent contractors, or both, that is registered or recognised as such an association (however described) under a State or Territory industrial law;

workplace—see section 5;

workplace protection order means an order under section 9 restraining a person from personal violence in relation to a workplace.

- (2) In this Act, a reference to **personal violence by a person in relation to a workplace** means—
 - (a) behaviour of a kind referred to in paragraphs (a) to (e) of the definition of personal violence in subsection (1) engaged in by the person in relation to a person at the workplace; or
 - (b) behaviour of a kind referred to in paragraph (f) of the definition of personal violence in subsection (1) engaged in by the person in relation to property at the workplace that causes reasonable fear to a person at the workplace.

5—Meaning of *workplace*

- (1) Subject to this section, a ***workplace*** is a place where prescribed work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while undertaking prescribed work.
- (2) A reference in this Act to a ***workplace*** will be taken to not include a prescribed workplace or a prescribed class of workplace.
- (3) In this section—
place includes—
 - (a) a vehicle, vessel, aircraft or other mobile structure; and
 - (b) any waters and any installation on land, on the bed of any waters or floating on any waters;***prescribed work*** means—
 - (a) work that requires direct interaction with members of the public (irrespective of whether the interaction is in person or not); or
 - (b) any other work of a prescribed kind,but does not include work of a kind excluded from this definition by the regulations.

Part 2—Workplace Protection Orders

6—Application for workplace protection order

- (1) Subject to this section, any of the following persons may apply to the Court for a workplace protection order in relation to a workplace:
 - (a) an employer at the workplace;
 - (b) the owner or occupier of the premises in which the workplace is situated;
 - (c) a representative of an employer association of which an employer at the workplace is a member;
 - (d) a health and safety representative for the workplace;
 - (e) a union entitled to represent the industrial interests of workers at the workplace.
- (2) When an application for a workplace protection order has been received in the Court, the Court must fix a date for a preliminary conference unless—
 - (a) an interim workplace protection order is sought; or
 - (b) the Court is satisfied, on application or its own initiative, that—
 - (i) holding a preliminary conference would create an unacceptable risk to a person's safety; or
 - (ii) a preliminary conference would be unlikely to achieve its objects.
- (3) If the Court does not fix a date for a preliminary conference under subsection (2), the Court must fix a date for the hearing of the application which, if an interim workplace protection order is sought, must be returned before the Court as a matter of priority, as far as is practicable.

- (4) The Court must, on fixing a date for a preliminary conference or for the hearing of an application, issue a summons for the appearance of the defendant on the date fixed.
- (5) A summons for the appearance of the defendant must be served on the defendant—
 - (a) personally; or
 - (b) in some other manner as may be authorised by the Court.

7—Preliminary conferences

- (1) The purpose of a preliminary conference arising out of an application for a workplace protection order is to—
 - (a) determine whether the proceedings for the order may be settled by consent without the need for a full hearing; and
 - (b) ensure the application is ready to be heard as soon as practicable.
- (2) Subject to subsection (3), a preliminary conference—
 - (a) is to be held on a date fixed by the Court under section 6(2); and
 - (b) may be held by the Court at any other time the Court considers appropriate.
- (3) The Court must not hold a preliminary conference if the Court considers, on application or on its own initiative, that—
 - (a) holding a preliminary conference would create an unacceptable risk to a person's safety; or
 - (b) a preliminary conference would be unlikely to achieve its objects.
- (4) If a preliminary conference in relation to an application for a workplace protection order is held and a workplace protection order or an interim workplace protection order is not made with the consent of the defendant, the Court must—
 - (a) fix a date for a further preliminary conference which is as soon as practicable after the day of the first conference; or
 - (b) fix a date for a hearing to decide the application for the workplace protection order.
- (5) If, at any time during the preliminary conference for an application for a workplace protection order, the Court is satisfied that the application is likely to be more effectively resolved by mediation than by a hearing, the Court may refer the parties to mediation and, for that purpose, may adjourn the preliminary conference until a specified date to allow for mediation to happen.

8—Interim workplace protection order

- (1) The Court may, at any time during proceedings on an application for a workplace protection order, make an interim workplace protection order before the application for the workplace protection order is determined.
- (2) Subject to this Act, the Court may only make an interim workplace protection order if the Court is satisfied that the order is necessary to do either or both of the following before the application for the workplace protection order is determined:
 - (a) ensure the safety of an affected person from personal violence;
 - (b) prevent substantial damage to property at a workplace.

- (3) An interim workplace protection order will be subject to the conditions fixed under section 11.
- (4) An interim workplace protection order ceases to be in force in relation to a defendant—
 - (a) if the Court makes a workplace protection order in relation to the defendant—when the workplace protection order comes into force against the defendant; or
 - (b) if the Court declines to make a workplace protection order in relation to the defendant—at the conclusion of the proceedings; or
 - (c) if the order ceases to be in force according to its terms; or
 - (d) if the Court revokes the order under section 15.

9—Workplace protection order

- (1) Subject to this Act, the Court may, during proceedings on application for a workplace protection order, make a workplace protection order against the defendant if satisfied that the defendant—
 - (a) has engaged in personal violence in relation to a workplace; and
 - (b) may engage in personal violence in relation to a workplace during the time the order is proposed to operate if the order is not made.
- (2) In deciding whether to make a workplace protection order the Court must, subject to this Act, consider the following:
 - (a) the objects of this Act;
 - (b) any hardship that may be caused to the defendant or anyone else by the making of the order;
 - (c) any previous personal violence by the defendant in relation to an affected person or anyone else;
 - (d) any previous protection order or intervention order made in relation to the defendant;
 - (e) any previous contravention of a protection order or intervention order by the defendant;
 - (f) the need to ensure that property is protected from damage.
- (3) The Court may also consider anything else the Court considers relevant.
- (4) A failure of the Court to comply with subsection (2) in relation to a workplace protection order does not affect the validity of the order.
- (5) A workplace protection order may be made in the absence of the defendant if the defendant was required by summons to appear at the hearing of the application and failed to appear in obedience to the summons.

10—Protection orders by consent

If, in proceedings for a workplace protection order, the defendant consents to the making of a workplace protection order or an interim workplace protection order, the Court may make the relevant order against the defendant—

- (a) without receiving any further submissions or evidence as to the grounds; and
- (b) whether or not any ground for making the order has been made out; and
- (c) whether or not the court has considered any matters required to be taken into account under this Act before the making of the order.

11—Conditions of protection orders

- (1) A workplace protection order or an interim workplace protection order is subject to the following conditions:
 - (a) subject to subsection (5), a condition that any firearm, ammunition or part of a firearm (each within the meaning of the *Firearms Act 2015*) in the possession of the defendant and any licence or permit held by the defendant authorising possession of a firearm must be surrendered to the Registrar of Firearms; and
 - (b) any other conditions the Court considers necessary taking into account the requirements of this section.
- (2) In determining the conditions to be included in a workplace protection order or an interim workplace protection order, the Court must give paramount consideration to the safety and protection of affected persons.
- (3) The Court must ensure the conditions included in a workplace protection order or an interim workplace protection order are the least restrictive of the personal rights and liberties of the defendant as possible that still achieve the objects of this Act and give effect to subsection (2).
- (4) Without limiting subsection (1)(b), a workplace protection order or an interim workplace protection order may do 1 or more of the following:
 - (a) prohibit the defendant from entering the workplace;
 - (b) prohibit the defendant from being within a particular distance from the workplace;
 - (c) prohibit the defendant from doing anything that is personal violence in relation to the workplace;
 - (d) prohibit the defendant from causing someone else to do anything that is personal violence in relation to the workplace;
 - (e) state the conditions on which the defendant may—
 - (i) be in the workplace; or
 - (ii) approach or contact a particular person.
- (5) The Court may omit, vary or revoke a condition of a workplace protection order or an interim workplace protection order imposed under subsection (1)(a) if satisfied that—
 - (a) there are cogent reasons to do so; and

- (b) the possession of the firearm, ammunition or part of a firearm by the defendant does not represent an undue risk to the safety and protection of an affected person.
- (6) A condition in a workplace protection order or an interim workplace protection order may have effect for a period stated in the order that is shorter than the period of the order.

12—Commencement of protection order

- (1) A workplace protection order or an interim workplace protection order comes into force against a defendant when served on the defendant in accordance with this section.
- (2) For the purposes of subsection (1), a workplace protection order or an interim workplace protection order is served on a defendant if—
 - (a) the defendant is present in the Court when the order is made; or
 - (b) the order is served on the defendant personally; or
 - (c) the order is served on the defendant in some other manner authorised by the Court.

13—Explaining order to parties present in court

- (1) If the defendant is present in court when the Court makes a workplace protection order or an interim workplace protection order the Court must explain to the defendant, in language likely to be readily understood by the defendant—
 - (a) the purpose, terms and effect of the order; and
 - (b) the consequences that may follow if the defendant fails to comply with the order; and
 - (c) how the order may be varied or revoked.
- (2) If a protected person is present in court when the Court makes a workplace protection order or an interim workplace protection order, the Court must explain to the protected person, in language likely to be readily understood by the protected person—
 - (a) the purpose, terms and effect of the order; and
 - (b) the consequences that may follow if the defendant fails to comply with the order; and
 - (c) how the order may be varied or revoked; and
 - (d) that, if the protected person aids or abets the defendant to commit an offence against section 16, the protected person may also commit an offence.
- (3) A failure of the Court to comply with this section in relation to a workplace protection order or an interim workplace protection order does not affect the validity of the order.

14—Duration of workplace protection order

On the making of workplace protection order, the order will remain in force for—

- (a) 12 months; or
- (b) if a shorter period is stated in the order—the period stated; or

- (c) if the Court is satisfied that there are special or exceptional circumstances that justify a longer period—the stated longer period.

Note—

On application under section 15 the Court may subsequently extend or reduce the period for which a workplace protection order is in force.

15—Variation and revocation of protection orders

- (1) Subject to this section, the Court may, on application made by any of the following persons, vary or revoke a workplace protection order or an interim workplace protection order:
- (a) the person who applied for the workplace protection order;
 - (b) a protected person;
 - (c) the defendant.
- (2) The Court may vary an order by—
- (a) varying the conditions of the order; or
 - (b) reducing the period for which the order is in force; or
 - (c) extending the period for which the order is in force.
- (3) The Court may only vary or revoke a workplace protection order or an interim workplace protection order if satisfied that—
- (a) varying or revoking the order (as the case requires) will not adversely affect the safety of a protected person; and
 - (b) in the case of a variation of the order, the order as varied could be made on application for a workplace protection order.
- (4) For the avoidance of doubt, the Court may extend the period for which a workplace protection order is in force such that the overall duration of the order exceeds 12 months without being satisfied that there are special or exceptional circumstances that justify the extension.
- (5) Except for the first application to vary or revoke a protection order, a defendant may only make an application under subsection (1) for the variation or revocation of a protection order with the permission of the Court.
- (6) The Court may only grant permission under subsection (5) if satisfied that—
- (a) there has been a material change in circumstances relating to the defendant or a protected person; or
 - (b) it is in the interests of justice to grant permission.

16—Offence to contravene protection order

- (1) A person commits an offence if the person engages in conduct that contravenes a protection order (including a condition of a protection order) applying in relation to the person.

Maximum penalty:

- (a) if the offence is not committed in aggravated circumstances—imprisonment for 2 years;

- (b) if the offence is committed in aggravated circumstances—imprisonment for 5 years.
- (2) For the purposes of this section, an offence is committed in *aggravated circumstances* if the commission of the offence involves personal violence.

17—Principal Registrar to give notice of protection order

The Principal Registrar must, on the making of a workplace protection order or an interim protection order, give a copy of the order to—

- (a) each party to the proceedings on the application for the order; and
- (b) each of the following persons who was not a party to the proceedings:
 - (i) a person who is a protected person under the order;
 - (ii) an employer at the workplace; and
- (c) the Commissioner of Police; and
- (d) the Registrar of Firearms; and
- (e) any other person specified by the Court to receive a copy of the order.

Part 3—Miscellaneous

18—Provision of information by police

- (1) Subject to this section, the Commissioner of Police may, on request by the Court, provide the Court with any of the following information relating to a defendant in proceedings on an application for a workplace protection order:
 - (a) the defendant's name and address; and
 - (b) the defendant's relevant history.
- (2) Subject to this section, if reasonable grounds to suspect that a person has engaged in personal violence in relation to a workplace exist, the Commissioner of Police may, on application by a person who is entitled to apply for a workplace protection order in relation to the workplace, provide the applicant with any of the following information relating to the person suspected of engaging in personal violence:
 - (a) the person's name and address; and
 - (b) the person's relevant history (to the extent that it is relevant to an application for a workplace protection order against the person).
- (3) The provision of information under this section is subject to a provision of the *Young Offenders Act 1993* that prohibits or limits the publication of the information.
- (4) Personal information relating to a person other than the person who is the subject of the application must not be provided under subsection (2) unless the provision of the information is required or authorised by the Court or by or under another Act or law.
- (5) A person who is provided with information under subsection (2)—
 - (a) may use the information for the purposes of making an application under this Act or proceedings under this Act; and

(b) must not use the information for any other purpose.

Maximum penalty: \$10 000.

(6) In this section—

personal information means information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

relevant history, of a person, means any of the following information:

- (a) convictions for offences committed by the person in South Australia or elsewhere (whether those convictions relate to offences committed before or after the commencement of this section);
- (b) offences alleged to have been committed (whether before or after the commencement of this section) by the person in South Australia or elsewhere and with which the person has been charged but which have not yet been finally determined;
- (c) information about any workplace protection order or interim workplace protection order made against the person;
- (d) information about any intervention order made against the person;
- (e) any other information, or information of a kind, prescribed by the regulations for the purposes of this definition.

19—Costs

- (1) Subject to subsection (2), each party to a proceeding for a workplace protection order is responsible for the party's own costs of the proceedings.
- (2) The Court may make an order about costs—
 - (a) against the applicant for a workplace protection order if the court is satisfied the application was vexatious, frivolous or in bad faith; or
 - (b) against the defendant if the court considers it appropriate to do so.

20—Power to arrest and detain for contravention of protection order

If a police officer has reason to suspect that a person has contravened a protection order, the officer may, without warrant, arrest and detain the person.

21—Burden of proof

In proceedings under this Act, the Court is to decide questions of fact on the balance of probabilities.

22—Consequential and ancillary orders

- (1) The Court may, on making or varying a protection order, make any consequential or ancillary order it thinks fit, including, in a case where the protection order prohibits the possession of an article or weapon (including a firearm) or an article or weapon of a specified class, an order—
 - (a) providing for the surrender or confiscation of the article or weapon or such an article or weapon; and

- (b) if the circumstances of the case so require, authorising a police officer—
 - (i) to enter and search and, if necessary, use reasonable force to break into or open—
 - (A) premises or a vehicle in which the article or weapon, or such an article or weapon is suspected to be; or
 - (B) part of, or anything in or on, premises or a vehicle in which the article or weapon, or such an article or weapon is suspected to be; and
 - (ii) to take possession of the article or weapon, or such an article or weapon.
- (2) Any firearm, ammunition or part of a firearm surrendered or confiscated under subsection (1) is to be dealt with under the *Firearms Act 2015* as if it had been surrendered under that Act.
- (3) Any other weapons or articles surrendered as required by the terms of a workplace protection order must be dealt with or disposed of as directed by the Court.

23—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (c) impose fines, not exceeding \$5 000 for offences against the regulations; and
 - (d) fix expiation fees, not exceeding \$315 for alleged offences against the regulations; and
 - (e) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or any other specified person or body.
- (3) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
- (4) A fee notice may provide for the waiver, reduction or remission of fees.

24—Review of Act

- (1) The Minister must cause a review of the operation of this Act to be conducted and a report on the review to be prepared and submitted to the Minister.
- (2) The review and the report must be completed after the third, but before the fourth, anniversary of the commencement of this Act.
- (3) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

Schedule 1—Related amendments

Part 1—Amendment of *Youth Court Act 1993*

1—Amendment of section 7—Jurisdiction

Section 7—after paragraph (ca) insert:

- (cb) has the same jurisdiction as the Magistrates Court to make a workplace protection order or an interim workplace protection order under the *Workplace Protection (Personal Violence) Act 2025* where the person who is to be subject to the order is a child or youth, and has power under that Act to vary or revoke such an order previously made by the Court; and

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2025	76	<i>Workplace Protection (Personal Violence) Act 2025</i>	4.12.2025	4.5.2026 (<i>Gazette 12.2.2026 p244</i>)