

South Australia

Intervention Orders (Prevention of Abuse) Regulations 2011

under the *Intervention Orders (Prevention of Abuse) Act 2009*

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Legislative history

1—Short title

These regulations may be cited as the *Intervention Orders (Prevention of Abuse) Regulations 2011*.

3—Interpretation

In these regulations—

Act means the *Intervention Orders (Prevention of Abuse) Act 2009*;

recorded evidence means a recording containing evidence of a relevant person (within the meaning of section 28A of the Act) made by a police officer that is, or may be, admissible in evidence in accordance with section 28A of the Act.

4—Foreign intervention order

- (1) For the purposes of the definition of *foreign intervention order* in section 3 of the Act, each of the following orders or notices under the law of another State, a Territory of the Commonwealth or New Zealand is declared to be a foreign intervention order:
 - (a) a protection order under the *Personal Violence Act 2016* of the Australian Capital Territory;

- (b) an apprehended personal violence order under the *Crimes (Domestic and Personal Violence) Act 2007* of New South Wales;
 - (c) an order under section 87 of the *Children's and Young People's Well-being Act 1989* of New Zealand;
 - (d) a protection order under the *Domestic Violence Act 1995* of New Zealand;
 - (e) a restraining order under the *Harassment Act 1997* of New Zealand;
 - (g) a personal violence restraining order under the *Personal Violence Restraining Orders Act 2016* of the Northern Territory;
 - (h) a restraining order under section 359F of the *Criminal Code* of Queensland;
 - (k) a restraint order, interim restraint order or telephone interim restraint order under Part XA of the *Justices Act 1959* of Tasmania;
 - (m) a personal safety intervention order under the *Personal Safety Intervention Orders Act 2010* of Victoria;
 - (n) a violence restraining order under the *Restraining Orders Act 1997* of Western Australia.
- (2) In this regulation, a reference to an order or notice of a particular type under the law of another State, a Territory of the Commonwealth or New Zealand is a reference to the orders, notices or other types of requirements encompassed by the equivalent reference in that law.

4A—Prescribed amount

For the purposes of sections 13(4)(b) and 31(2a)(a) of the Act, the prescribed amount is \$1 300.

4B—Prescribed details

- (1) For the purposes of sections 18(6)(b)(i), 18(9), 21(10)(b)(i), 21(11), 23(7)(b)(i), 23(8), 26(9)(b)(i), 26(10)(a) and 30(6) of the Act, the prescribed details of an order issued against a defendant are such of the following details as are specified in the order:
- (a) the name of the defendant;
 - (b) the date of birth of the defendant;
 - (c) the address of the defendant or the most recent address of the defendant;
 - (d) the AP number and court file number;
 - (e) the name of the protected person;
 - (f) the date of birth of the protected person;
 - (g) the prohibitions and requirements imposed by the order;
 - (h) if the order was issued in relation to an act of domestic abuse—that fact;
 - (ha) if the order addresses a domestic violence concern—that fact;
 - (i) if the order is an interim order—that fact;
 - (j) the date on which—

- (i) in the case of prescribed details for the purposes of section 26(9)(b)(i) or (10)(a) of the Act—the variation of the order was made; or
 - (ii) in any other case—the order was made;
 - (k) whether the order has been served on the defendant.
- (2) For the purposes of section 24(5)(b)(i) of the Act, the prescribed details of an order issued against a defendant are such of the following details as are specified in the order:
- (a) the name of the defendant;
 - (b) the date of birth of the defendant;
 - (c) the address of the defendant or the most recent address of the defendant;
 - (d) the prohibitions and requirements imposed by the order (including, if the order bars the defendant from attending at particular premises, the address of those premises);
 - (e) if the order includes an attachment order—that fact and the terms of the attachment order;
 - (f) the date on which the order was made;
 - (g) whether the order has been served on the defendant.

4BA—Translation of recorded evidence (section 28A of Act)

- (1) If a statement in recorded evidence is in a language other than English, that statement must be translated into English, either in the recording or in a transcript made at a later time.
- (2) If a transcript is made in accordance with subregulation (1), the transcript must accompany the recorded evidence to which it relates if—
 - (a) the defendant elects to listen to or view the recorded evidence before it is admitted into evidence in proceedings; or
 - (b) the recorded evidence is admitted into evidence in proceedings.
- (3) If a person translates a statement in recorded evidence in accordance with subregulation (1)—
 - (a) the person must state, in the form of an affidavit, that the statement was accurately translated into English; and
 - (b) if the recorded evidence is admitted into evidence in proceedings—the affidavit must accompany the recorded evidence.
- (4) The Court may require that a translation made in accordance with subregulation (1) be verified (in such manner as the Court may direct) as an accurate translation of the relevant statement.

4BB—Access to recorded evidence (section 28A of Act)

- (1) A police officer who intends to ask the Court to admit recorded evidence in proceedings for the making, or variation, of an intervention order may give the defendant unrestricted or restricted access to the recorded evidence.

- (2) If a police officer decides to give the defendant restricted access, the police officer must give the defendant a notice (a *recorded evidence access notice*) that complies with this section.
- (3) The recorded evidence access notice must—
 - (a) indicate that the police officer has determined to give the defendant restricted access to the recorded evidence; and
 - (b) state that the defendant's access to the recorded evidence is subject to the following conditions:
 - (i) the condition that the recorded evidence will be available for the defendant to listen to or view (as the case may require) under the supervision of a police officer at a place specified in the notice and at a time to be arranged at the request of the defendant;
 - (ii) any other conditions the police officer considers necessary or desirable to protect the relevant person who is the subject of the recorded evidence and to prevent unauthorised reproduction or dissemination; and
 - (c) set out the manner in which the defendant may request access to the recorded evidence, including the name and contact details of the person who is responsible for arranging access to the recorded evidence on behalf of the police officer.
- (4) A person who is given restricted access to recorded evidence by a police officer under this regulation must not contravene a condition of access.

Maximum penalty: \$5 000.

- (5) In this regulation—

access—a person gives another person access to recorded evidence if the person—

 - (a) retains possession of the recorded evidence but allows the other to listen to or view the recorded evidence; or
 - (b) gives the other a physical or digital copy of the recorded evidence; or
 - (c) provides the other with rights to access a digital copy of the recorded evidence;

restricted access to recorded evidence means access subject to conditions imposed under this regulation;

unrestricted access to recorded evidence means access that is not subject to conditions imposed under this regulation.

4BC—Allowing access to recorded evidence (section 28A of Act)

- (1) A person who has possession of, or access to, recorded evidence must not allow access to the recorded evidence by another person except—
 - (a) for the legitimate purposes of any proceedings in which the recorded evidence has been admitted into evidence or to which the recorded evidence relates; or
 - (b) for use by a public official for purposes connected with their official functions; or

- (c) as may be authorised by the police officer who made the application for the making, or variation, of an intervention order.

Maximum penalty: \$5 000.

- (2) In this regulation—

public official means—

- (a) a police officer; or
- (b) a person who holds an office or position in the employment in the State or an instrumentality or agency of the State.

4C—Corresponding laws (section 29A of Act)

Pursuant to the definition of *corresponding law* in section 29A of the Act, the following are declared to be corresponding laws for the purposes of Part 3A of the Act:

- (a) *Family Violence Act 2016* of the Australian Capital Territory;
- (b) *Crimes (Domestic and Personal Violence) Act 2007* of New South Wales;
- (c) *Domestic and Family Violence Act 2007* of the Northern Territory;
- (d) *Domestic and Family Violence Protection Act 2012* of Queensland;
- (e) *Family Violence Act 2004* of Tasmania;
- (f) *Family Violence Protection Act 2008* of Victoria;
- (g) *Restraining Orders Act 1997* of Western Australia.

4D—Foreign intervention orders (section 29A of Act)

Pursuant to the definition of *foreign intervention order* in section 29A of the Act, the following are declared not to be foreign intervention orders for the purposes of Part 3A of the Act:

- (a) a protection order under the *Personal Violence Act 2016* of the Australian Capital Territory;
- (b) an apprehended personal violence order under the *Crimes (Domestic and Personal Violence) Act 2007* of New South Wales;
- (c) an order under section 87 of the *Children’s and Young People’s Well-being Act 1989* of New Zealand;
- (d) a restraining order under the *Harassment Act 1997* of New Zealand;
- (e) a personal violence restraining order under the *Personal Violence Restraining Orders Act 2016* of the Northern Territory;
- (f) a restraining order under section 359F of the *Criminal Code* of Queensland;
- (g) a restraint order, interim restraint order or telephone interim restraint order under Part XA of the *Justices Act 1959* of Tasmania;
- (h) a personal safety intervention order under the *Personal Safety Intervention Orders Act 2010* of Victoria;
- (i) a violence restraining order under the *Restraining Orders Act 1997* of Western Australia.

4E—General violence orders (section 29A of Act)

For the purposes of paragraph (b) of the definition of *general violence order* in section 29A of the Act, a violence restraining order made under the *Restraining Orders Act 1997* of Western Australia after 1 July 2017 is declared not to be a general violence order.

4F—Interstate DVOs (section 29A of Act)

Pursuant to the definition of *interstate DVO* in section 29A of the Act, the following are declared to be interstate DVOs for the purposes of Part 3A of the Act:

- (a) a domestic violence order under the *Domestic Violence and Protection Orders Act 2008* of the Australian Capital Territory (repealed);
- (b) a protection order and an after-hours order under the *Family Violence Act 2016* of the Australian Capital Territory;
- (c) an apprehended domestic violence order and an interim apprehended domestic violence order under the *Crimes (Domestic and Personal Violence) Act 2007* of New South Wales;
- (d) a domestic violence order under the *Domestic and Family Violence Act 2007* of the Northern Territory;
- (e) a domestic violence order, a police protection notice or release conditions under the *Domestic and Family Violence Protection Act 2012* of Queensland;
- (f) an FVO (a family violence order), an interim FVO and a PVFO (a police family violence order) under the *Family Violence Act 2004* of Tasmania;
- (g) the following orders under the *Restraining Orders Act 1997* of Western Australia:
 - (i) a family violence restraining order;
 - (ii) a violence restraining order that addresses a domestic violence concern made before 1 July 2017;
 - (iii) a police order;
- (h) a family violence intervention order or a family violence safety notice under the *Family Violence Protection Act 2008* of Victoria.

4G—Registered foreign orders (section 29B of Act)

Pursuant to section 29B(1)(b) of the Act, the following are declared to be registered foreign orders for the purposes of Part 3A of the Act:

- (a) a New Zealand FVO that is a foreign order registered under Part 9 of the *Family Violence Act 2016* of the Australian Capital Territory;
- (b) an external protection order made by a court of New Zealand and registered under Part 13 of the *Crimes (Domestic and Personal Violence) Act 2007* of New South Wales;
- (c) an external order made under a law of New Zealand and registered under the *Domestic and Family Violence Act 2007* of the Northern Territory;
- (d) a registered New Zealand order under Part 6 of the *Domestic and Family Violence Protection Act 2012* of Queensland;

- (e) an external family violence order made by a court of New Zealand and registered under section 27 of the *Family Violence Act 2004* of Tasmania;
- (f) a foreign restraining order made by a court of New Zealand and registered under Part 7A of the *Restraining Orders Act 1997* of Western Australia;
- (g) a corresponding New Zealand order registered under Part 10 of the *Family Violence Protection Act 2008* of Victoria.

5—Transitional—foreign restraining orders registered under the Summary Procedure Act 1921

A foreign restraining order registered under the *Summary Procedure Act 1921* immediately before the commencement of clause 38 of Schedule 1 of the Act other than an order that was made under a provision of the law of another State or a Territory of the Commonwealth or New Zealand corresponding to section 99AA (Paedophile restraining orders) or section 99AAC (Child protection restraining orders) of the *Summary Procedure Act 1921* is declared to be an order to which clause 38(2) of Schedule 1 of the Act applies.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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.

Legislation revoked by principal regulations

The *Intervention Orders (Prevention of Abuse) Regulations 2011* revoked the following:

Domestic Violence Regulations 2006

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2011	223	<i>Gazette 20.10.2011 p4274</i>	9.12.2011: r 2
2012	205	<i>Gazette 6.9.2012 p4376</i>	17.9.2012: r 2
2015	236	<i>Gazette 19.11.2015 p4985</i>	1.12.2015 except new r 4B(1)(h) (as inserted by r 4)—1.3.2016: r 2
2017	310	<i>Gazette 21.11.2017 p4701</i>	25.11.2017: r 2
2019	189	<i>Gazette 18.7.2019 p2750</i>	1.9.2019: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>17.9.2012</i>
r 3	inserted by 189/2019 r 4	1.9.2019
recorded evidence		
r 4		
r 4(1)	varied by 205/2012 r 4	17.9.2012
	varied by 310/2017 r 4(1)-(3), (5), (8)	25.11.2017
	(f) deleted by 310/2017 r 4(4)	25.11.2017
	(i), (j) deleted by 310/2017 r 4(6)	25.11.2017
	(l) deleted by 310/2017 r 4(7)	25.11.2017
r 4A	inserted by 236/2015 r 4	1.12.2015

r 4B	inserted by 236/2015 r 4	1.12.2015—except (1)(h)—1.3.2016
r 4B(1)	varied by 310/2017 r 5	25.11.2017
rr 4BA—4BC	inserted by 189/2019 r 5	1.9.2019
rr 4C—4G	inserted by 310/2017 r 6	25.11.2017
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>17.9.2012</i>

Historical versions

17.9.2012
1.12.2015
1.3.2016
25.11.2017