



New South Wales

Crimes (Domestic and Personal Violence) Amendment (Apprehended Violence Orders) Regulation 2016

under the

Crimes (Domestic and Personal Violence) Act 2007

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Domestic and Personal Violence) Act 2007*.

GABRIELLE UPTON, MP
Attorney General

Explanatory note

The object of this Regulation is to amend the *Crimes (Domestic and Personal Violence) Regulation 2014* consequent on amendments made to the *Crimes (Domestic and Personal Violence) Act 2007* by the *Crimes (Domestic and Personal Violence) Amendment (Review) Act 2016*. In particular, this Regulation:

- (a) updates the form of an application notice for an apprehended personal violence order, and
- (b) prescribes the form of an application notice for an apprehended domestic violence order, and
- (c) makes a provision of a transitional nature.

This Regulation is made under the *Crimes (Domestic and Personal Violence) Act 2007*, including sections 50 (2) and 101 (the general regulation-making power) and clause 11 (3) of Schedule 1.

Crimes (Domestic and Personal Violence) Amendment (Apprehended Violence Orders) Regulation 2016

under the

Crimes (Domestic and Personal Violence) Act 2007

1 Name of Regulation

This Regulation is the *Crimes (Domestic and Personal Violence) Amendment (Apprehended Violence Orders) Regulation 2016*.

2 Commencement

This Regulation commences on 3 December 2016 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Crimes (Domestic and Personal Violence) Regulation 2014

[1] Clause 5

Omit the clause. Insert instead:

5 Form of application notices for apprehended violence orders

For the purposes of section 50 (2) of the Act, the forms set out in Schedule 1 are prescribed.

[2] Clause 6

Insert after clause 5:

6 Existing applications for apprehended violence orders

- (1) Despite clause 11 (2) of Schedule 1 to the Act, the amendments to the Act by the *Crimes (Domestic and Personal Violence) Amendment (Review) Act 2016* extend to:
 - (a) an application for an apprehended violence order made but not finally dealt with before those amendments, and
 - (b) any proceedings arising from any such application.
- (2) Subclause (1) does not apply to the amendment to section 37 of the Act relating to property recovery orders.

[3] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Application notices for apprehended violence orders

(Clause 5)

Form 1 Application for apprehended personal violence order

Crimes (Domestic and Personal Violence) Act 2007

Details of the applicant (the person making the application)

Name:

Police application number (if application made by police):

Contact details:

Details of the protected person or persons (the persons to be protected by the order)

Name of first person:

Address:

Date of birth/Age:

Name of any other person:

Address:

Date of birth/Age:

Note. The address at which a protected health care provider resides must not be stated in this application unless the protected health care provider consents to the address being included or, if the application is made by a police officer, the police officer is satisfied that the defendant knows the address.

Details of the defendant (the person against whom the order is sought)

Name:
Date of birth/Age:
Telephone number:
Address:
Central Name Index (where known):

NOTICE TO APPLICANT

It is an offence under the *Crimes (Domestic and Personal Violence) Act 2007* to make a statement in this application that you know is false or misleading in a significant respect.

The maximum penalty for that offence is imprisonment for 12 months and/or a fine of \$1,100.

NOTICE TO DEFENDANT

You are directed to attend the Local Court or Children’s Court of NSW on:

Date:
Time:
Place:

If you fail to attend, the court may make orders against you or issue a warrant for your arrest to bring you before the court.

Reasons for making this application

The applicant is making an application for an apprehended personal violence order for the following reasons:

Further information about the relationship between the applicant and the defendant

Note. This section is not required to be completed if this application is made by the police.

- 1 Is there an existing commercial relationship between you and the defendant? Yes No
If the answer is “Yes”, give details:
- 2 Do you owe the defendant any money? Yes No
If the answer is “Yes”, give details:
- 3 Do you owe any other financial debt to the defendant? Yes No
If the answer is “Yes”, give details:
- 4 Does the defendant owe you any money? Yes No
If the answer is “Yes”, give details:
- 5 Does the defendant owe any other financial debt to you? Yes No
If the answer is “Yes”, give details:
- 6 Has there ever been a court case or legal proceedings involving you and the defendant? Yes No
If the answer is “Yes”, give details:

The applicant asks that the court make the following orders against the defendant for a period of *[insert number]* months:

The standard orders that the applicant asks the court to make

Orders about behaviour

- 1 The defendant must not do any of the following to the protected person(s) or anyone the protected person(s) has a domestic relationship with:
- (a) assault or threaten them, and
 - (b) stalk, harass or intimidate them, and
 - (c) intentionally or recklessly destroy or damage any property that belongs to or is in the possession of them.

Additional orders that the applicant asks the court to make (tick if required)

Orders about contact

- 2 The defendant must not approach or contact the protected person(s) in any way, unless contact is through a lawyer.
- 3 The defendant must not approach:
- (a) the school or any other place the protected person(s) might go to for study, or
 - (b) any place the protected person(s) might go to for childcare, or
 - (c) any other place listed here:
- 4 The defendant must not approach or be in the company of the protected person(s) within at least 12 hours after drinking alcohol or taking illicit drugs.
- 5 The defendant must not try to find the protected person(s), except as ordered by a court.

Orders about family law and parenting

- 6 *This order is not applicable to apprehended personal violence orders.*

Orders about where defendant cannot go

- 7 The defendant must not live at:
- (a) the same address as the protected person(s), or
 - (b) any place listed here:
- 8 The defendant must not go into:
- (a) any place where the protected person(s) lives, or
 - (b) any place where the protected person(s) works, or
 - (c) any place listed here:
- 9 The defendant must not go within [*insert number*] metres of:
- (a) any place where the protected person(s) lives, or
 - (b) any place where the protected person(s) works, or
 - (c) any place listed here:

Order about weapons

- 10 The defendant must not possess any firearms or prohibited weapons.

Other orders

- 11 [*List other orders*].

Signature of the applicant:

Date:

Form 2 Application for apprehended domestic violence order

Crimes (Domestic and Personal Violence) Act 2007

Details of the applicant (the person making the application)

Name:

Police application number (if application made by police):

Contact details:

Details of the protected person or persons (the persons to be protected by the order)

Name of first person:

Address:

Date of birth/Age:

Relationship to defendant:

Name of any other person:

Address:

Date of birth/Age:

Note. The address at which a protected health care provider resides must not be stated in this application unless the protected health care provider consents to the address being included or, if the application is made by a police officer, the police officer is satisfied that the defendant knows the address.

Details of the defendant (the person against whom the order is sought)

Name:

Date of birth/Age:

Telephone number:

Address:

Central Name Index (where known):

NOTICE TO APPLICANT

It is an offence under the *Crimes (Domestic and Personal Violence) Act 2007* to make a statement in this application that you know is false or misleading in a significant respect.

The maximum penalty for that offence is imprisonment for 12 months and/or a fine of \$1,100.

NOTICE TO DEFENDANT

You are directed to attend the Local Court or Children's Court of NSW on:

Date:

Time:

Place:

If you fail to attend, the court may make orders against you or issue a warrant for your arrest to bring you before the court.

Reasons for making this application

The applicant is making an application for an apprehended domestic violence order for the following reasons:

Further information about the relationship between the applicant and the defendant

Note. This section is not required to be completed if this application is made by the police.

- 1 Are you currently involved in any legal proceedings under the *Family Law Act 1975* of the Commonwealth that may be relevant? Yes No
If the answer is “Yes”, give details:
- 2 Has the court made a property order or are property orders currently being sought under the *Family Law Act 1975* of the Commonwealth that may be relevant? Yes No
If the answer is “Yes”, give details:
- 3 Has the court made a parenting order under the *Family Law Act 1975* of the Commonwealth that affects this application? Yes No
If the answer is “Yes”:
On what basis was the parenting order made:
Why should the court intervene with that parenting order:

The applicant asks that the court make the following orders against the defendant for a period of [insert number] months:

The standard orders that the applicant asks the court to make

Orders about behaviour

- 1 The defendant must not do any of the following to the protected person(s) or anyone the protected person(s) has a domestic relationship with:
- (a) assault or threaten them, and
 - (b) stalk, harass or intimidate them, and
 - (c) intentionally or recklessly destroy or damage any property that belongs to or is in the possession of them.

Additional orders that the applicant asks the court to make (tick if required)

Orders about contact

- 2 The defendant must not approach or contact the protected person(s) in any way, unless contact is through a lawyer.
- 3 The defendant must not approach:
- (a) the school or any other place the protected person(s) might go to for study, or
 - (b) any place the protected person(s) might go to for childcare, or
 - (c) any other place listed here:
- 4 The defendant must not approach or be in the company of the protected person(s) within at least 12 hours after drinking alcohol or taking illicit drugs.
- 5 The defendant must not try to find the protected person(s), except as ordered by a court.

Orders about family law and parenting

- 6 The defendant must not approach or contact the protected person(s) in any way, unless contact is:
- (a) through a lawyer, or

- (b) to attend accredited or court-approved counselling, mediation and/or conciliation, or
 - (c) ordered by this court or another court about contact with the child/children, or
 - (d) as agreed in writing between the defendant and the parent(s) about contact with the child/children, or
 - (e) as agreed in writing between the defendant, the parent(s) and the person with parental responsibility for the child/children about contact with the child/children.
- Note.** Order 6 (e) is an alternative to order 6 (d).

Orders about where defendant cannot go

- 7 The defendant must not live at:
 - (a) the same address as the protected person(s), or
 - (b) any place listed here:
- 8 The defendant must not go into:
 - (a) any place where the protected person(s) lives, or
 - (b) any place where the protected person(s) works, or
 - (c) any place listed here:
- 9 The defendant must not go within [*insert number*] metres of:
 - (a) any place where the protected person(s) lives, or
 - (b) any place where the protected person(s) works, or
 - (c) any place listed here:

Order about weapons

- 10 The defendant must not possess any firearms or prohibited weapons.

Other orders

- 11 [*List other orders*].

Signature of the applicant:

Date: