

# Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016 No 9

[2016-9]



New South Wales

## Status Information

### Currency of version

Repealed version for 25 September 2017 to 25 November 2017 (accessed 12 July 2024 at 3:28)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

This Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 26.11.2017.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016 No 9



New South Wales

## Contents

<b>Long title</b> .....	3
1 Name of Act .....	3
2 Commencement .....	3
<b>Schedule 1 Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80</b> .....	3

# Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016 No 9



New South Wales

An Act to amend the *Crimes (Domestic and Personal Violence) Act 2007* to give effect to the New South Wales component of a national recognition scheme for domestic violence orders.

## 1 Name of Act

This Act is the *Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016*.

## 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of *Crimes (Domestic and Personal Violence) Act 2007 No 80*

### [1], [2] (Repealed)

### [3] Section 41 Measures to protect children in proceedings

Insert after section 41 (1) (d):

- (e) any part of proceedings under Part 13B for the variation or revocation of a recognised non-local DVO or for a declaration that a DVO is a recognised DVO in which a child appears as a witness.

### [4] Section 43 Non-inclusion of protected person's residential address in applications or orders

Insert "or an application under Part 13B for the variation or revocation of a recognised non-local DVO or for a declaration that a DVO is a recognised DVO" before "unless" in section 43 (1).

**[5] Section 43 (2)**

Insert “or in a declaration under Part 13B that a DVO is a recognised DVO” before “unless”.

**[6] Section 45 Publication of names and identifying information about children and other persons involved in proceedings**

Omit section 45 (8). Insert instead:

(8) In this section:

***apprehended violence order proceedings*** include proceedings under Part 13B for the variation or revocation of a recognised non-local DVO or for a declaration that a DVO is a recognised DVO.

***court*** includes a Registrar.

**[7] Section 94 Definitions**

Omit the definition of ***external protection order***. Insert instead:

***external protection order*** means:

- (a) an order made by a court of New Zealand that has been made to prevent a person from acting in a manner specified in section 16, or
- (b) an order made by a court of another State or Territory or New Zealand that has been made to prevent a person from acting in a manner specified in section 19, or
- (c) an order made by a court of another State or Territory or New Zealand that is of a kind prescribed by the regulations.

**[8] Section 97 Effect of registration of external protection order**

Insert after section 97 (2):

(2A) Subsection (2) does not apply to a variation or revocation of an external protection order if the order is a recognised DVO under Part 13B and the variation or revocation is recognised in New South Wales under that Part.

**[9] Part 13B**

Insert after Part 13A:

## Part 13B National recognition of domestic violence orders

### Division 1 Preliminary

#### 98R Object of Part

This Part establishes, in conjunction with the corresponding laws, a national recognition scheme for DVOs (or domestic violence orders).

#### 98S Definitions

In this Part:

**corresponding law** means a law of another jurisdiction that contains provisions that substantially correspond with this Part or a law of another jurisdiction that is declared by the regulations to be a corresponding law for the purposes of this Part.

**defendant** means the person against whom a DVO is made.

**domestic violence concern**—see section 98W.

**DVO** (or **domestic violence order**) means a local DVO, an interstate DVO or a foreign order.

**final DVO** means a DVO that is not an interim DVO.

**foreign order** means a New Zealand DVO.

**general violence order** means:

- (a) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* of South Australia, or
- (b) a violence restraining order under the *Restraining Orders Act 1997* of Western Australia, other than:
  - (i) a violence restraining order made under section 11B of that Act, or
  - (ii) a police order under that Act.

**interim DVO** means a DVO that is of an interim or provisional nature and, to avoid doubt, includes the following:

- (a) any DVO made by a police officer,
- (b) (Repealed)
- (c) a temporary protection order under the *Domestic and Family Violence Protection Act 2012* of Queensland,

(d) any DVO declared by the regulations to be an interim DVO.

**interstate DVO**—see section 98U.

**interstate law enforcement agency** means:

- (a) the police force of another jurisdiction, or
- (b) any other agency of another jurisdiction responsible for the enforcement of DVOs in that jurisdiction.

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

**issuing jurisdiction** for a DVO means the jurisdiction in which the DVO is made.

**jurisdiction** means a State or Territory.

**local DVO**—see section 98T.

**local law enforcement agency** means the NSW Police Force.

**make** includes issue.

**New Zealand DVO** means an order made under the *Domestic Violence Act 1995* of New Zealand or under an Act repealed by that Act.

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

**participating jurisdiction** means the following jurisdictions:

- (a) New South Wales,
- (b) a jurisdiction in which a corresponding law is enacted.

**properly notified**—see section 98ZE.

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

**recognised DVO**—see sections 98Y and 98ZY.

**recognised variation**—see section 98Z.

**registered foreign order**—see section 98V.

**revoke** includes cancel.

**vary** a DVO includes the following:

- (a) amend or modify the DVO,
- (b) add further conditions, prohibitions or restrictions to the DVO or vary or delete

conditions, prohibitions or restrictions,

- (c) extend or reduce the period in which the DVO remains in force.

### **98T Local DVO**

- (1) A **local DVO** means an apprehended domestic violence order or an interim apprehended domestic violence order made under this Act.
- (2) A registered foreign order is not a local DVO.

### **98U Interstate DVO**

- (1) Each of the following orders is an **interstate DVO**:
- (a) a family violence order under the *Family Violence Act 2016* of the Australian Capital Territory,
  - (b) a domestic violence order under the *Domestic and Family Violence Act* of the Northern Territory,
  - (c) a domestic violence order, police protection notice or release conditions under the *Domestic and Family Violence Protection Act 2012* of Queensland,
  - (d) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* of South Australia that addresses a domestic violence concern,
  - (e) a family violence order (FVO), interim FVO or police family violence order (PFVO) under the *Family Violence Act 2004* of Tasmania,
  - (f) a family violence intervention order or a family violence safety notice under the *Family Violence Protection Act 2008* of Victoria,
  - (g) the following orders under the *Restraining Orders Act 1997* of Western Australia:
    - (i) a violence restraining order made before 1 July 2017 that addresses a domestic violence concern,
    - (ii) a family violence restraining order,
    - (iii) a police order,
  - (h) any order, notice or other thing declared by the regulations to be an interstate DVO.
- (2) A registered foreign order is not an interstate DVO.

### **98V Registered foreign order**

A **registered foreign order** means a foreign order that is:

- (a) a registered external protection order under Part 13 of this Act that has been made to prevent a person acting in a manner specified in section 16, or
- (b) a registered foreign order under Part 9 of the *Family Violence Act 2016* of the Australian Capital Territory, or
- (c) a registered external order under the *Domestic and Family Violence Act* of the Northern Territory, or
- (d) a registered foreign order under the *Domestic and Family Violence Protection Act 2012* of Queensland, or
- (e) a foreign intervention order registered under Part 4 of the *Intervention Orders (Prevention of Abuse) Act 2009* of South Australia (other than an order declared under the regulations made under that Act not to be a foreign intervention order), or
- (f) an external family violence order registered under section 27 of the *Family Violence Act 2004* of Tasmania, or
- (g) a corresponding New Zealand order registered under Part 10 of the *Family Violence Protection Act 2008* of Victoria, or
- (h) a foreign restraining order registered under Part 7A of the *Restraining Orders Act 1997* of Western Australia, or
- (i) any order declared by the regulations to be a registered foreign order.

### **98W Domestic violence concerns—SA and WA orders**

- (1) An intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* of South Australia addresses a domestic violence concern if the order is made because the defendant has committed, or because it is feared the defendant will commit, an act of domestic abuse (within the meaning of that Act).
- (2) A violence restraining order under the *Restraining Orders Act 1997* of Western Australia addresses a domestic violence concern 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 section 6 of that Act).
- (3) A general violence order is taken, for the purpose of this Part, to be an order that addresses a domestic violence concern 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.
- (4) The regulations may prescribe circumstances in which an order made in a participating jurisdiction is taken, for the purpose of this Part, to be an order that addresses a domestic violence concern.

### **98X Special provisions for foreign orders**

- (1) For the purpose of this Part, a registered foreign order:
- (a) is taken to be made in the jurisdiction in which it is registered as a registered foreign order, and
  - (b) is taken to be made when it becomes a registered foreign order in that jurisdiction.
- (2) A registered foreign order is varied or revoked, for the purpose of this Part, if its registration as a registered foreign order is varied or revoked.
- (3) 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.

## **Division 2 National recognition of DVOs**

### **Subdivision 1 General principles**

#### **98Y Recognition of DVOs**

- (1) Each of the following DVOs is a **recognised DVO** in New South Wales:
- (a) a local DVO,
  - (b) an interstate DVO made in a participating jurisdiction,
  - (c) a foreign order that is a registered foreign order in any participating jurisdiction.

**Note—**

Recognition can also extend to DVOs made in jurisdictions that are not, or are not yet, participating jurisdictions. See Division 6.

- (2) A DVO becomes a recognised DVO when it is made.

**Note—**

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

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

### **98Z Variations to DVO**

- (1) A variation to a recognised DVO that is done in New South Wales or another jurisdiction is a **recognised variation** in New South Wales in the circumstances provided for by this section.
- (2) A variation to a local DVO is a recognised variation in New South Wales if the variation is done:
- (a) in New South Wales 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 New South Wales 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 made.

### **98ZA Revocation of recognised DVO**

- (1) A DVO ceases to be a recognised DVO if the DVO is revoked in New South Wales or another jurisdiction and that revocation is recognised in New South Wales.
- (2) A revocation of a local DVO is recognised in New South Wales if the revocation is done:
- (a) in New South Wales 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 revocation of an interstate DVO or foreign order is recognised in New South Wales 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.

### **98ZB Recognised DVO prevails over earlier comparable DVOs**

(1) A recognised DVO that is enforceable against a defendant in New South Wales (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).

(7A) A provisional order made under this Act by an authorised 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 one or more of the same protected persons.

### **98ZC 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) (Repealed)

## Subdivision 2 Enforcement of recognised DVOs

### 98ZD 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 New South Wales.
- (2) A recognised DVO that is a local DVO becomes enforceable against the defendant in New South Wales when the defendant is properly notified of the making of the DVO under the law of New South Wales.
- (3) A recognised DVO that is a non-local DVO (other than a foreign order) becomes enforceable against a defendant in New South Wales 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 New South Wales from the time it becomes a recognised DVO.
- (5) A recognised variation to a recognised DVO becomes enforceable against the defendant in New South Wales when the defendant is properly notified of the variation under the law of the jurisdiction in which the variation is done.

### 98ZE Properly notified—meaning

- (1) The making of a local DVO is **properly notified** under the law of New South Wales if:
  - (a) the DVO is made by a court and the defendant is present in court when the DVO is made, or
  - (b) the defendant is served in accordance with this Act with a copy of the DVO.
- (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 New South Wales is **properly notified** under the law of New South Wales if:
  - (a) the variation is done by a court and the defendant is present in court when the DVO is varied, or
  - (b) the defendant is served in accordance with this Act with a copy of the variation.
- (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.

### **98ZF Contravention of enforceable recognised DVO**

- (1) A non-local DVO that is a recognised DVO and which is enforceable against a defendant in New South Wales may be enforced in New South Wales:
  - (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 the law of New South Wales.
- (2) A recognised variation to a non-local DVO that is a recognised DVO and which is enforceable in New South Wales may be enforced in New South Wales 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 New South Wales may be enforced as if the defendant had been properly notified of the variation under the law of New South Wales.
- (4) This section does not affect any law of New South Wales that requires a geographical nexus to exist between New South Wales and an offence for a person to be guilty of an offence under the law of New South Wales.

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

### **98ZG Non-local DVO to be treated as local DVO**

- (1) A recognised DVO that is a non-local DVO has the same effect in New South Wales 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 New South Wales as if it were a prohibition or restriction of a local DVO.

#### **Note—**

Section 14 of this Act creates an offence if a person contravenes a prohibition or restriction in an apprehended violence order. This means that a condition of a non-local DVO that is in the nature of a prohibition or restriction can be enforced in New South Wales. However, a condition of a non-local DVO that is not in the nature of a prohibition or restriction (for example, a condition that requires the defendant to attend an alcohol rehabilitation course) cannot be enforced.

### **98ZH Licences, permits and other authorisations**

- (1) A law of New South Wales (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.

### **98ZI 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 or local firearms licence of the same type (as the case requires).

(2) The Commissioner of Police 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 1996](#).

**non-local firearms licence** means a licence, permit or other authorisation to possess a firearm (within the meaning of the [Firearms Act 1996](#)) issued under the law of another jurisdiction or country.

### **98ZJ Recognition of disqualification to hold weapons permit**

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local weapons permit or type of non-local weapons permit, the person is also disqualified from holding a local weapons permit or local weapons permit of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local weapons permit held by a person, or refuse to issue a local weapons permit to a person, if the person is so disqualified from holding the weapons permit by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local weapons permit or type of non-local weapons permit if the DVO expressly:
  - (a) disqualifies the person from holding a non-local weapons permit or type of non-local weapons permit, or
  - (b) revokes or requires the person to surrender a non-local weapons permit or type of non-local weapons permit held by the person.
- (4) In this section:

**local weapons permit** means a permit under the [Weapons Prohibition Act 1998](#).

**non-local weapons permit** means a licence, permit or other authorisation to possess a prohibited weapon (within the meaning of the [Weapons Prohibition Act 1998](#)) issued under the law of another jurisdiction or country.

### **98ZK Orders for costs**

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

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

### **98ZL Definition**

In this Division:

**court** means a court of New South Wales that has power to make local DVOs.

**98ZM Power of court to vary or revoke recognised non-local DVOs**

- (1) A 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) A 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 New South Wales.
- (4) This Division does not apply to the variation or revocation of a foreign order that is registered as a registered foreign order in New South Wales.

**Note—**

Locally registered foreign orders (which in Part 13 are referred to as registered external protection orders) can be varied or revoked under section 98.

- (5) To avoid doubt, if a court varies a recognised DVO that was made in another jurisdiction, the other jurisdiction continues to be treated, for the purpose of this Part, as the jurisdiction in which the DVO was made.

**98ZN 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 a court as if it were an application for variation or revocation of a local DVO by any person who would be able to make the application if the DVO were a local DVO.
- (2) An application:
  - (a) is to be made to a court that would have power to hear the application if the DVO were a local DVO, and
  - (b) is to be made in accordance with any requirements that would apply if the DVO were a local DVO, and
  - (c) may be dealt with (subject to this Division) as if the DVO were a local DVO.

**98ZO Decision about hearing of application**

- (1) A court that deals with an application for variation or revocation of a non-local DVO 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 who are protected persons under the DVO,
  - (g) any other matters 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, a 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) A 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**

### **Note—**

Section 25 of the *Privacy and Personal Information Protection Act 1998* provides that a public sector agency is not required to comply with a number of information protection principles (including those that restrict the use and disclosure of personal information) where non-compliance is permitted under an Act. The exchange of information in accordance with this Division is therefore not limited by those information protection principles.

### **98ZP Issuing authorities may obtain DVO information**

An issuing authority of New South Wales 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.

### **98ZQ Issuing authorities must provide DVO information**

- (1) An issuing authority of New South Wales that makes, varies or revokes a DVO must provide to a court of any other 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 New South Wales 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.

### **98ZR Law enforcement agencies may obtain DVO information**

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

### **98ZS 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**

### **98ZT Certificate evidence—notification**

- (1) An authorised officer of New South Wales 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 the law of New South Wales,
  - (b) that a variation to a DVO that was done in New South Wales has been properly notified under the law of New South Wales.
- (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 New South Wales means:

- (a) a registrar of a court of New South Wales, or
- (b) a police officer in the NSW Police Force of or above the rank of sergeant.

**Note—**

The meaning of authorised officer in this section is different from the meaning of that term in the rest of this Act or from the meaning that the term has in the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#).

## **98ZTA Protection from liability where local DVO varied or revoked outside NSW**

- (1) Anything done or omitted to be done by a police officer in relation to the enforcement of a local DVO that has been revoked or varied as a result of action in another jurisdiction is taken to be lawfully done or omitted if:
  - (a) the police officer was not aware at the time the thing was done or omitted that the local DVO had been revoked or varied as a result of action in

another jurisdiction, and

- (b) the police officer acted in good faith on the basis of the information available to the police officer at the time the thing was done or omitted, and
  - (c) the thing would have been lawfully done or omitted if the local DVO had not been revoked or varied as a result of action in another jurisdiction.
- (2) For the purposes of this section, a local DVO is revoked or varied as a result of action in another jurisdiction if:
- (a) the local DVO is superseded under this Part by an interstate DVO made in another jurisdiction or a foreign order that is a registered foreign order in another jurisdiction, or
  - (b) the local DVO is revoked by a court of another jurisdiction and that revocation is recognised in New South Wales under this Part, or
  - (c) a variation to the local DVO is done in another jurisdiction and that variation is a recognised variation in New South Wales under this Part.

## **Division 6 Provisions consequent on enactment of Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016**

### **Subdivision 1 Preliminary**

#### **98ZU Definition**

In this Division, the **commencement date** means the date on which this Part commences.

#### **98ZV Enforcement of DVOs under other provisions**

- (1) This Part does not affect the enforceability in New South Wales, otherwise than under this Part, of any local DVO made before the commencement date, subject to subsection (3).
- (2) This Part does not affect the enforceability in New South Wales, otherwise than under this Part, of any interstate DVO or foreign order registered in New South Wales, before the commencement date, under Part 13, subject to subsection (3).
- (3) However, a DVO made in New South Wales before the commencement date can be superseded under section 98ZB, on or after the commencement date, by a recognised DVO that is made later.

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

### **98ZW DVOs made in New South Wales**

Division 2 applies to any local DVO or foreign order that is made in New South Wales on or after the commencement date.

### **98ZX 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 98Y 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 98Z and 98ZA 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 New South Wales, 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**

### **98ZY DVOs declared to be recognised DVOs**

- (1) Each of the following DVOs is also taken to be a **recognised DVO**:
  - (a) any DVO that is declared by a registrar of a court of New South Wales to be a recognised DVO in New South Wales under Subdivision 4,
  - (b) any 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 New South Wales, under this Part, when the declaration is made (despite section 98ZC).

### **98ZZ DVOs declared to be recognised in other jurisdictions before commencement date**

- (1) To avoid doubt, section 98ZY 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 98Z and 98ZA 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 New South Wales, under this Part, until the commencement date.

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

### **98ZZA Definition**

In this Subdivision:

**registrar** means a registrar of a court of New South Wales that has power to make a local DVO.

### **98ZZB Power to declare DVO to be recognised**

- (1) A registrar may, by order, declare any DVO made in any jurisdiction to be a recognised DVO in New South Wales.
- (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 New South Wales.
- (3) The jurisdiction in which the DVO was made does not have to be a participating jurisdiction.
- (4) A registrar must make a declaration under this section if an application for the declaration is made in accordance with this Subdivision, unless the registrar decides to refuse to make the declaration in the interests of justice.
- (5) Without limiting subsection (4), the registrar may refuse to make the declaration if the registrar is 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 98ZY, the DVO becomes enforceable against the defendant when the declaration is made. Subsection (7) of this section specifies that notice of the declaration is not to be served on the

defendant unless the person making the application consents to service.

- (6) However, a registrar cannot declare a general violence order to be a recognised DVO in New South Wales.
- (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 98X, 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.

**98ZZC Application for order**

- (1) An application for a declaration that a DVO is a recognised DVO in New South Wales 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:
  - (a) be made in a form approved by the registrar, and
  - (b) be accompanied by any information or evidence the registrar requires.

**Note—**

It is only necessary to make an application in one participating jurisdiction. Under section 98ZY, once a declaration is made in any participating jurisdiction the DVO will be treated as a recognised DVO in all participating jurisdictions.

**98ZZD Functions of registrar may be exercised by court**

A court with power to make a local DVO may exercise any of the functions of a registrar of the court under this Subdivision.

**Subdivision 5 Existing registered external DVOs**

**98ZZE Registered interstate DVOs**

- (1) The registration under Part 13 of any order made by a court of another State or Territory that was registered under that Part as an external protection order before the commencement date is not affected by the commencement of this Part and this Act continues to apply in respect of the order as if this Part had not commenced.
- (2) The order is not a local DVO for the purposes of this Part (despite section 97 (1) (a)).
- (3) The order ceases to be registered under Part 13 if the order becomes a

recognised DVO in New South Wales. In that case, this Part applies to the order in the same way as it applies to any other recognised DVO that is a non-local DVO.

**Note—**

Under this provision, an interstate order registered under Part 13 before the start of the national recognition scheme will continue to be enforceable in New South Wales as provided for by that Part. If the interstate order becomes a recognised DVO by operation of section 98ZX or by declaration under section 98ZZB, the order ceases to be registered under that Part and the order will then be enforceable in New South Wales and nationally under the national recognition scheme.