CLAUSE NOTES

Workplace Protection Orders Bill 2026

PART 1 – PRELIMINARY

Clause 1 **Short title**

Specifies the name of the proposed Act.

Clause 2 **Commencement**

Provides for the Act to commence on a day or days to be proclaimed.

Clause 3 **Interpretation**

Provides definitions of general terms used throughout the Act. Importantly, it defines 'workplace-related person', which is defined broadly to include not only employees, but also customers and patrons of the workplace. The clause also defines 'Court' to mean the Magistrates Court.

Clause 4 **Meaning of *personal violence***

Defines the term 'personal violence'. The definition is similar to the definitions contained in the equivalent legislation in the Australian Capital Territory and *Workplace Protection (Personal Violence) Act 2025* (SA).

Clause 5 **Meaning of *workplace***

Defines the term 'workplace'. The term has been defined broadly and inclusively to ensure it captures the diverse reality of what workplaces look like. The definition is modelled on the definition of 'workplace' contained in the *Work Health and Safety Act 2012* however contains some additions. The definition covers mobile premises and even personal homes if work is undertaken at a person's home. Subclause (1)(b) covers areas that a person goes or is likely to be as part of their work.

Clause 6 **Meaning of *workplace protection order***

Defines a 'workplace protection order'. This clause is similar in nature to section 4 of the *Restraint Orders Act 2019*.

Clause 7 **Application of Act**

Clarifies that unless a contrary intention appears, this Act is in addition to and does not take away the authority of the provision of another Act. In particular, the making of a workplace protection order does not discharge any duty under the *Work Health and Safety Act 2012*.

PART 2 – WORKPLACE PROTECTION ORDERS

Clause 8 Applications for workplace protection orders

Sets out the categories of people who have standing to apply for a workplace protection order. This loosely reflects section 6 of the *Workplace Protection (Personal Violence) Act 2025* (SA). Notably, employees themselves are not provided with standing to make an application, as it is more appropriate as in other jurisdictions for employers, unions or health and safety representatives to make applications. WPOs in respect of a workplace can't be sought against an employer or employee of that workplace, as internal workplace disputes are more appropriate to resolve through existing legal mechanisms.

Clause 9 Matters relevant to making workplace protection orders

Subclause (1) provides that both in respect of determining whether to make a WPO, and what conditions to impose as part of that WPO, the Court must consider that the protection, safety and welfare of workplace-related persons and their families are of paramount importance.

Subclause (2) sets out a number of factors, and similarly applies both when determining whether to make a WPO, and what conditions to impose as part of a WPO. However, consideration of these factors is discretionary, and need only be considered to the extent they are relevant, and information has been put before the Court in relation to them.

Subclause (2)(j) specifically relates to WPO respondents who are children, and provides the Court may take into account, after considering practicable diversionary and therapeutic options, whether making the order is necessary or appropriate in the circumstances to prevent workplace damage or personal violence, and what is in the best interests of the child.

The list in subclause (2) is non-exhaustive and does not prevent the Court from considering any other matter it considers relevant.

Clause 10 Commissioner of Police may provide certain information

Provides a power for the Commissioner of Police, upon request by the Court, to provide certain information to the Court, including the record of prior convictions of a WPO respondent, or information about other WPOs made in respect of the same respondent. This clause is modelled, in part, on s 18 of the *Workplace Protection (Personal Violence) Act 2025* (SA).

Clause 11 Court may make workplace protection orders

Sets out the test for the Court to apply in considering whether to make a WPO. This is a two-part test, requiring the court to be satisfied on the balance of probabilities that the respondent has previously engaged in certain conduct and, unless restrained, is at serious risk of continuing to engage in such behaviour (or carry out previous threats). This test is loosely based on the tests for the making of a restraint order in section 106B of the *Justices Act* and s 6(2) of the *Restraint Orders Act*.

Subclause (3) also provides that a WPO may be made in the absence of the respondent in certain circumstances, including where all reasonable attempts have been made to serve a copy of the application on the respondent.

Clause 12 WPO applications where respondent is a child

Provides a WPO may be transferred to the Youth Justice Division of the Magistrates Court. These provisions have similarities to s 31(8)-(9) of the *Family Violence Act*, s 17(11)-(12) of the *Restraint Orders Act* and 106E(4)-(5) of the *Justices Act*.

Subclause (2) is modelled on s 6(3) of the *Youth Justice Act 1997*.

Subclause (3)-(4) provide for explanation to the child in simple language of the purpose and effect of the order; or having an appropriate person give the explanation; or having a written explanation provided.

Clause 13 Making of workplace protection orders

Sets out the form a workplace protection order is to be in and restrictions that apply to the making of an order. Subclause (3) confirms a WPO may apply to more than one workplace (for example, several franchises).

Subclause (2) specifies that a WPO cannot be made in respect of a child under the age of 10 years.

Clause 14 Commencement of certain orders

Provides for the commencement of both workplace protection orders, and interim orders. This clause is modelled on s 19 of the *Restraint Orders Act* and s 25 of the *Family Violence Act.*

Clause 15 Duration of workplace protection orders

Provides that, in respect of an adult, a workplace protection order remains in force for the period specified in the order, and if no period is so specified, it remains in force for 12 months. The discretion to set an appropriate period is consistent with restraint orders under both the *Justices Act* and *Restraint Orders Act 2019*, as well as family violence orders under s 19 of the *Family Violence Act*, where there is no limitation on the duration of an order.

Subclause (2) applies if the respondent is a child, in which case, the initial order may only be made for a period of up to 6 months, but the order cannot be in force for longer than 12 months cumulatively (including any extensions under clause 20).

Clause 16 Powers after filing of initial WPO application

Provides a power for the Court to make and administer interim orders prior to an application being determined.

Recognising there may be some situations where it is more appropriate for a different type of order to be considered, subclause (2) allows the Court to proceed as if it were an application for a family violence order or a restraint order. This is modelled on section 106BA of the *Justices Act,* s 9(2) of the *Restraint Orders Act* and s 24 of the *Family Violence Act*.

Subclause (3) allows for an order to be made if both parties consent.

Subclause (4) allows the Court to make an interim workplace order in the absence of the respondent.

Clause 17 Interim workplace protection orders

Sets out the framework for the making of an interim workplace protection order. In essence, an interim order can be made if the Court is satisfied it is necessary or appropriate to ensure the safety of a workplace-related person (or family member of such a person) or to prevent substantial damage to the workplace.

In making an interim order, the Court is not required to be satisfied of the matters in clause 11 but must still take into account the matters specified in clause 9 to the extent they are relevant.

Subclause (5) confirms that an interim order can only be in force for a period not exceeding 60 days if the respondent is a child, or 6 months

for adults. Subclause (6) clarifies, for the avoidance of doubt, that an interim order (similarly to a final order) cannot be made in respect of a child under the age of 10 years.

Clause 18 Court may vary, extend or revoke workplace protection orders

Sets out who has standing to apply to vary, extend or revoke a workplace protection order and in what circumstances the application can be made and considered. This is modelled on sections 10 and 11 of the *Restraint Orders Act 2019*.

Clause 19 Variation of workplace protection orders

Provides that when the Court is considering an application under section 18 to vary a workplace protection order, after taking into account the matters specified in clause 9, the Court may so vary the order if it considers it necessary or appropriate in the circumstances.

Clause 20 Extension of workplace protection orders

Provides that when the Court is considering an application under section 18 to extend a workplace protection order, after taking into account the matters in clause 9, the Court may extend the order if satisfied that the serious risk, referred to in clause 11(1)(b), remains, and considers the extension necessary or appropriate in the circumstances.

There may be an extension irrespective of whether there have been any further actions by the WPO respondent in respect of the workplace or workplace-related person.

Clause 21 Revocation of workplace protection orders

Provides that when the Court is considering an application under section 18 to revoke a workplace protection order, it may do so after considering matters in section 9 and being satisfied that the order is no longer appropriate.

Clause 22 Conditions may be imposed in respect of orders

Provides the Court with power to add conditions to a workplace protection order or interim order. The clause also sets out conditions that may be added, noting the court may include any condition it considers appropriate in the circumstances.

In determining conditions, the Court must take into account that the protection, safety and welfare of workplace-related persons, and family members of those workplace-related persons, is of paramount

importance, and conditions imposed are not to be more onerous than necessary in the circumstances.

Clause 23 Proceedings relating to WPO applications

Stipulates the procedure for the Court hearing an application, including that it is to be heard and determined in open court and in the same manner (as nearly as practicable) as a complaint for a simple offence. This clause is modelled on s 17 of the *Restraint Orders Act,* s 31 of the *Family Violence Act* and aspects of s 106E of the *Justices Act.*

Importantly, subclause (2) states, if the respondent is a child, the Court is to be satisfied that the child has been provided with the opportunity to be represented by a lawyer, and supported by a parent, guardian or advocate.

Subclause (3) clarifies who may conduct the hearing of an application on behalf of the parties.

Subclauses (4) and (5) are evidentiary provisions intended to reduce complexity and provide for the admission of non-controversial evidence.

Clause 24 Warrants and other orders on making of workplace protection orders

Addresses enforceability of certain provisions and associated police powers. This is modelled on section 7 of the *Restraint Orders Act*.

Clause 25 Service of workplace protection orders

Specifies how workplace protection orders and interim orders are to be served or otherwise provided to the parties. This clause has been modelled on section 18 of the *Restraint Orders Act*.

Clause 26 Costs in relation to workplace protection orders

Outlines the circumstances in which costs can be ordered in respect of workplace protection order proceedings. Subclause (1) outlines that in general, the parties to proceedings are to bear their own costs. Subclause (2) provides a costs order may be made in certain circumstances, such as where the Court is satisfied a party has made the application in a manner that is malicious, frivolous or in bad faith.

The remainder of the subclauses address how costs are to be assessed and recovered.

Aspects of this clause are modelled on s 30 of the *Restraint Orders Act* and s 34 of the *Family Violence Act.*

PART 3 – MISCELLANEOUS

Clause 27 **Persons must not contravene workplace protection order**

Makes it an offence to contravene a workplace protection order or interim order. Provides for a tiered penalty system depending on whether the offence is the first or second (or subsequent) breach of an order. These penalties are consistent with the maximum penalties that apply in respect of breach of a family violence order under s 35 of the *Family Violence Act 2004*.

Provides a power of arrest for a police officer if they have reasonable cause to suspect that a person has committed an offence.

Clause 28 **Effect of workplace protection orders on interests in property**

Clarifies that a workplace protection order or interim order does not impact any legal or equitable interest a person may have in a particular premises or property (even if it affects their access to such premises or property). This clause is modelled on section 106B(5B) of the *Justices Act* and s 6(7) of the *Restraint Orders Act*.

Clause 29 **Restriction of publication of names of parties**

Provides the Court with power to prohibit publication of material relating to proceedings under the Act where the Court considers it in the interests of justice, or appropriate, to do so.

Subclause (2) creates an offence for publishing material in contravention of a Court order made under subclause (1).

Subclause (3) independently prohibits publication of material relating to proceedings that discloses, or may disclose, the identity of a child involved in or affected by the proceedings.

Subclause (4) prohibits publication of references or allusions to material where the publication is intended to disclose, or is sufficient to disclose or infer, material prohibited under the clause.

Subclause (5) provides a limited exception for publication in good faith for the purpose of enforcing a workplace protection order, where publication is no more extensive than necessary and does not publicly disclose the material.

This clause is modelled on section 106K of the *Justices Act,* s 31 of the *Restraint Orders Act* and s 32 of the *Family Violence Act*.

Clause 30 **Powers to make workplace protection orders at other proceedings**

Provides a power for both the Magistrates Court, and Supreme Court, to make a workplace protection order during proceedings for another matter (such as hearing a complaint for a summary offence) where those proceedings relate to or have a connection with the workplace. This is for expediency and is modelled on s 22 of the *Restraint Orders Act,* s 106J of the *Justices Act* and s 36 of the *Family Violence Act.*

Clause 31 Decisions may be subject to review

Inserts a power to have a decision made under the Act by the Magistrates Court reviewed by the Supreme Court.

Clause 32 Other orders prevail if inconsistent

Provides that other orders, such as restraint orders, family violence orders and Family Court orders, prevail if there is any inconsistency with a workplace protection order. The *Restraint Orders Act* (s 29), the *Justices Act* (s 106GE) and the *Family Violence Act* (s 33) all contain similar, but more limited, clauses.

Clause 33 Rules of court

Provides power for the Court to produce rules regarding practice and procedure for proceedings under the Act. For example, the rules of court could specify matters that must be addressed in the application or any annexures that must accompany it.

Clause 34 Regulations

Provides power for regulations to be made under the Act.

Clause 35 Review of Act

Provides for a review of the Act to be conducted in relation to the 3 year period following the commencement of the Act, with the ensuing report to be provided to each house of Parliament within 4 years of commencement.

Clause 36 Administration of Act

Assigns administration of the Act to the Minister for Justice, Corrections and Rehabilitation until a provision is made under section 4 of the *Administrative Arrangements Act 1990*.

Clause 37 Consequential amendments

Enables the legislation specified in Schedule 1 to be amended. These include amendments to the *Firearms Act 1996* concerning the effect of

workplace protection orders and interim workplace protection orders on firearms licensing, suspension and cancellation, and related powers.

Schedule 1 also amends the *Youth Justice Act 1997* to provide jurisdiction for the Magistrates Court (Youth Justice Division) to determine applications involving respondents who are children.