

CIVIL DOMESTIC VIOLENCE LEGISLATION IN THE SOUTH PACIFIC

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Introduction

- [1] The purpose of civil domestic violence statutes is to seek to reduce domestic violence by empowering civil courts to make orders prohibiting acts of domestic violence, and orders which can reduce the risk of domestic violence between partners.
- [2] It is the civil character of the proceedings which is unique and important:
 - (a) Criminal proceedings can be complex, slow, and backward-looking. Criminal courts are concerned with addressing past acts and are sensitive to the presumption of innocence and the need for proof beyond reasonable doubt;
 - (b) Civil courts, on the other hand, can be simpler, quicker, and forward-looking. The making of orders relating to future conduct seeks to stop further acts of domestic violence. Civil domestic violence statutes are primarily concerned with future prevention, not past proof and punishment.
- [3] Civil domestic violence statutory schemes are now endemic in the South Pacific. All the 16 Members of the Pacific Island Forum with common law systems have enacted statutes which provide for civil domestic violence proceedings. Those member states are Tonga, Samoa, Cook Islands, Papua New Guinea, Solomon Islands, Fiji, Nauru, Vanuatu, Kiribati, Tuvalu, Marshall Islands, the Federated States of Micronesia, Palau, Australia and New Zealand. The current statutes are set out on in Schedule A to this paper. Those statutes were introduced between 2008 and 2022. So, the statutes are relatively new in most Pacific Island jurisdictions.
- [4] The 16 statutes differ in points of detail. However, given their common purpose, and the common problems they must address, it is not surprising that the statutes are very similar.
- [5] Schedule B¹ compares and contrasts the principal provisions in the civil domestic violence statutes in several jurisdictions. It deals with the principal provisions of the Queensland statute,² and with the statutes in Tonga, Samoa, the Cook Islands, Papua New Guinea, the Solomon Islands, Fiji, Nauru and Vanuatu. Although this is not all the relevant statutes, the nine statutes provide a reasonable basis for inferring that the general characteristics of civil domestic violence statutes are the same over the whole of the South Pacific, and to infer some of the principal areas of variation.
- [6] Schedule B shows that lawyers and Judges in all South Pacific jurisdictions are engaged in a common undertaking of administering laws seeking to prevent and deter domestic violence by the civil law as well as the criminal law system. The

¹ Mr Reimen Hii of the Queensland Bar prepared this table for the purposes of the seminar.

² *The Domestic and Family Violence Prevention Act 2014* (Qld)

balance of this paper identifies the key characteristics of civil domestic violence statutes across the region and notes some specific differences.

The proceedings are civil proceedings

- [7] Each of the statutes reviewed provides for a civil proceeding, usually by providing for a proceeding to be commenced by an application or some similar civil initiating process. Sometimes the statute includes both civil and criminal provisions. An example is the Papua New Guinea statute, which by s. 6 creates a specific offence of domestic violence, and by s. 7 provides for a civil application for a domestic violence order. Obviously, it makes a big difference to both the procedural and substantive law whether a provision creates a civil right or a criminal offence. So, care must be taken in blended statutes. In this seminar we are focussing on the civil proceeding.
- [8] There are some fundamental implications flowing from the civil character of domestic violence proceedings.
- [9] **First**, because the proceeding is a *civil* proceeding, the onus will be on the applicant to establish by evidence that a domestic violence order should be made, and the standard of proof will be balance of probabilities.³ It is therefore easier to prove acts of domestic violence in a civil proceeding than in a criminal proceeding. That is how it is supposed to be. Lawyers and judges should guard against introducing the criminal standard to civil domestic violence proceedings. Doing so is apt to frustrate the purpose of the civil regime.
- [10] **Second**, because the proceeding is a civil proceeding, it will give rise to the usual issues which affect civil proceedings and will attract the ordinary principles of civil procedure. Questions of practice such as service and proof of service, time limits for taking steps, disclosure of documents, court directions, evidence (both form and content), rights to cross examination, subpoenas, form of expert evidence, costs, discontinuance and early termination and such like must be dealt with.
- [11] Those principles of practice and procedure can usually be found in one of three sources:
 - (a) **First**, sometimes there will be specific rules made which regulate civil procedure for domestic violence proceedings. Queensland has adopted this approach in the *Domestic and Family Violence Protection Rules 2014* (the **Queensland Rules**)
 - (b) **Second**, sometimes the general civil procedure rules made for the Court which is hearing the application will apply. For example, in Papua New Guinea the civil procedure for domestic violence proceedings are those applying in the District Court of Papua New Guinea, which is the trial Court for civil domestic violence applications.
- [12] It is the **third** source of principles applicable to civil domestic violence proceedings which is sometimes overlooked. As you would know, there are the common law

³ No express provision altering the civil standard of proof was identified, though practitioners should consider their home statute with care for any variation on this approach. The principle articulated in *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361-362 also needs to be kept in mind: “*The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal.*”

principles applicable in civil proceedings which arise from the conferral of civil jurisdiction to hear and determine a matter. In my experience, these principles are often overlooked by practitioners. Sometimes they confer powers on a Court and other times they limit those powers. I will give you some examples.

- [13] At common law, a Court which is given civil jurisdiction to hear and determine a matter also has a power incidental to that substantive jurisdiction to prevent abuse of its own processes.⁴ Abuse of process is a broad doctrine.⁵ For example, it can be used by a Court summarily to dismiss a proceeding which is so hopeless as to amount to an abuse of process. In the absence of express statutory provision, any Court which has power to hear and determine a civil domestic violence application will also have the whole range of powers which arise under the doctrine of abuse of process. Do not forget this. It often provides a solution to problems where there is no rule or section to help you.
- [14] On the other hand, it is strongly arguable that, at common law, a Court has **no** implied power to make final orders in default of appearance without considering the merits of the case. There needs to be a statutory power to make final orders in default. Some of the statutes provide expressly for making of orders otherwise than on the merits. However, if there is no such power in the relevant Act or rules, a court will not be able to make an order other than on the merits, and that is likely to extend to requiring sufficient reasons to be given for granting or dismissing an application on a final basis.⁶
- [15] Another example is that, at common law, a Court has no power to order costs of proceedings.⁷ So if there is no provision for costs in the relevant Act or rules, costs orders cannot be made.
- [16] So practitioners and Judges should keep in mind that they are dealing with civil proceedings and be conscious of the express or implied rules which regulate those proceedings.

What must be proved?

- [17] When bringing or defending any civil claim, it is necessary to identify with precision the elements of the cause of action that must be proved to obtain the order sought. The position is the same for civil domestic violence proceedings.
- [18] There is broad agreement in the statutes examined as to what is required. There are, broadly, three elements:
- (a) First, that the parties are in a family or domestic relationship, or have been in the past;
 - (b) Second, that the respondent has committed acts of domestic violence; and
 - (c) Third, that there is need for an order to protect the aggrieved person in the future.

⁴ *Taylor v Taylor* (1979) 143 CLR 1; *Grassby v R* (1989) 168 CLR 1; *Connelly v DPP* [1964] AC 1254.

⁵ *Batistatos v Roads and Traffic Authority of New South Wales* (2006) 226 CLR 256 [9] – [15].

⁶ See the discussion of the need for reasons in the context of the Queensland statute in *FLC v MRT* [2021] QDC 264 at [39] to [59].

⁷ *Halsbury's Laws of Australia* On-line Edition at [325-9415], and see an application of the principle in a matter in which the writer's client fell victim to the rule in *Re Ansett Australia Holdings Ltd* [1998] 1 Qd R 116 at 121-122.

- [19] Each statute articulates these broad requirements in different language. Attention must, of course, be given to the precise language when developing evidence and formulating submissions. Schedule B provides some examples of the differing language employed in the region's statutes.
- [20] Notably, there is broad similarity in the definition of domestic violence. In every jurisdiction which was examined, domestic violence goes beyond the narrow concept of physical assault on the aggrieved person and includes verbal, sexual and psychological abuse. It is important to be aware of the scope of the definition.

Who can apply? Who can be protected?

- [21] All statutes recognise that it might be desirable for a person other than the aggrieved person to be the applicant for the order. Various forms of language are used, but all but one statute that was examined expressly provided standing for Police Officers to be the applicant. Police officers play a central role in the Queensland scheme.
- [22] Similarly, all statutes recognised that protection might be given to persons named in the order other than the aggrieved him or herself, including children of the aggrieved, parents of the aggrieved or partners of the aggrieved. Again, it is necessary to consider the scope of the local statute.

Interim and final orders

- [23] In Queensland, the statute provides for Temporary Protection Orders (**TPOs**) and Protection Orders (**POs**). TPOs are interlocutory orders, prohibiting acts of domestic violence without the necessity to establishing the entitlement under the statute to a final order. All the jurisdictions examined expressly provided for TPOs. Indeed, some provide for an interim order and, separately, for an interlocutory order.⁸
- [24] Interim and interlocutory orders are a vital element in the statutory scheme. As a rule, they can be obtained more easily than final POs, consistent with their short term or interlocutory character. Sometimes they are all that is required to rein in aggressive behaviour, especially for normally law-abiding people who are struggling with a separation or relationship problems.
- [25] All the statutes examined make it easier to obtain an interim or interlocutory order, as compared to a final order. In the statutes examined, that was done one of two ways:
- (a) **First**, by requiring acts of domestic violence to be established, but on a lesser standard of proof.⁹
 - (b) **Second**, by requiring only a reasonable suspicion or expectation that domestic violence has occurred.¹⁰
- [26] Some jurisdictions have another alternative: a temporary form of order made by Police Officers, not by a Judge. Queensland has such provision¹¹, along with New Zealand, the Cook Islands, the Solomon Islands and Nauru¹². In Queensland, many civil domestic violence applications begin with a Police Protection Notice (**PPN**). The PPN is effective as a form of temporary order. It reflects the extensive

⁸ For example, the Tongan statute at s. 13 and 14.

⁹ For example, the Queensland statute at s. 46, s. 5 of the Samoan statute.

¹⁰ For example, ss. 13(2) and 14(2) of the Tongan statute.

¹¹ Section 101 of the Queensland statute.

¹² Section 12 in each case.

involvement of the Commissioner of Police in civil Domestic Violence matters in Queensland. The Commissioner or a specific Police Officer can be, and usually is, a party to the proceedings. In such cases, the Police run the application on behalf of the aggrieved person.

- [27] In the writer's experience, this provides a good deal of assistance and professionalism in an area where, otherwise, funds are limited (although my experience is at appeal level). If your jurisdiction does not have provision for a temporary order made by a police officer, it might be worth considering.

Rules of Evidence

- [28] One consequence of the proceedings being civil proceedings conducted in a Court is that prima facie the rules of evidence will apply. Attention must always be given to whether, and to what extent, those rules are modified by statute. That is particularly true for civil domestic violence proceedings.
- [29] The position varies throughout the South Pacific.
- [30] In Queensland and in Samoa, Fiji, Nauru and Vanuatu the statute excludes the rules of evidence. In the other jurisdictions examined, being Tonga, the Cook Islands, Papua New Guinea and the Solomon Islands, the better view is that the rules of evidence do apply.
- [31] However, for Papua New Guinea and the Solomon Islands, the rules of evidence do not apply in interim applications.
- [32] Tonga and the Cook Islands do not appear to have an exception of that kind. However, it is possible that first-hand hearsay is admissible in interim applications, under the ordinary civil procedure rules applying in those jurisdictions, as an exception of that kind has been common in civil procedure rules in common law countries for a long time.¹³ Practitioners should consult the local civil procedure rules.
- [33] Where the rules of evidence do not apply, it is important to keep in mind that, as a matter of general principle applicable in common law jurisdictions, the fact that the rules of evidence do not apply does not mean that parties can tender any kind of evidence and insist that the Court act on it. A provision which excludes the rules of evidence does not permit a Court to act on material which is irrelevant to an issue in dispute. Nor does it permit a Court to ignore questions of probative weight, particularly where evidence would be inadmissible for a reason which goes to its inherent persuasiveness.¹⁴
- [34] Further, the point of evidence is to persuade the Court. Remote hearsay evidence might be tendered where the rules of evidence do not apply, but it will be unpersuasive to a Judge. It is a good discipline to try to put evidence in an admissible form, or as close to that as possible, even if the rules do not apply.

¹³ See by way of example Rule 430(2) *Uniform Civil Procedure Rules 1999* (Qld), discussed in *Bendigo & Adelaide Bank Limited v Wilkin* [2018] QDC 16 at [15] to [18] and [25]

¹⁴ See these propositions applied in the context of civil domestic violence proceedings in Queensland in *ADH v AHL* [2017] QDC 103 at [46]; *MNT v MEE* [2020] QDC 126 at [20], and as to the guidance provided by the rules of evidence to probative weight see *R v War Pensions Entitlement Appeal Tribunal ex parte Bott* (1933) 50 CLR 228 at 256

Form of evidence

- [35] The form of evidence in chief in domestic violence proceedings in Qld is nearly always affidavit evidence. That is not dictated by the Qld statute, but the Queensland Rules authorise the Court to order evidence in that form, and it is the almost invariable practice to do so. The practices in the eight jurisdictions examined in Schedule B have not been analysed. However, where the rules of evidence do not apply, affidavits are likely an option. In any event, even if evidence must be given orally, a witness statement will have to be produced.

Cross examination of the aggrieved in proceedings

- [36] Another aspect of civil domestic violence proceedings worth noting is that, in some jurisdictions, the Parliament has interfered with the usual right to cross examine in civil proceedings. There is no absolute right at common law to cross examine, as such. However, cross examination of an adverse witness is a usual part of the fair hearing rule.
- [37] What about where a respondent, alleged to have committed domestic violence, is acting for him or herself? Do they get to cross examine the aggrieved person, who might be intimidated or humiliated? Queensland and Samoa have given a Court express power to limit or exclude direct cross examination.¹⁵
- [38] Of course, the power of a Court to control its own process and prevent abuses of process will give any civil Court power to prevent intimidating or abusive cross examination, even where there is no express section or rule. It might be thought an express statutory provision might assist here.

Forms of order

- [39] The last point to deal with is the form of orders available. All the jurisdictions examined had provision for three principal orders made in domestic violence applications:
- (a) An order to be of good behaviour and not commit domestic violence;
 - (b) An order not to approach the aggrieved or to contact the aggrieved; and
 - (c) The order ousting one or other of the parties from the marital home.
- [40] Most statutes also confer power to make other orders. Again the scope of orders which can be made might surprise you, so look closely at your own statute.

Conclusion

- [41] There is substantial similarity in the civil domestic violence statutes in the South Pacific. It is likely that assistance will be found for lawyers and Judges facing new issues in the statutes and decisions of other regional jurisdictions.

¹⁵ Section 151 of the Queensland Act and 8(1) of the Samoan Act and see Rules 23 and 24 of the Queensland Rules.

Schedule A

CIVIL DOMESTIC VIOLENCE STATUTES IN THE SOUTH PACIFIC

Cook Islands:	<i>Family Protection and Support Act 2017</i>
Federated States of Micronesia:	<i>Domestic Issues Act 2017</i>
Fiji:	<i>Domestic Violence Act 2009</i>
Kiribati:	<i>Te Rau N Te Mwenga Act 2014 (Family Peace Act)</i>
Marshall Islands:	<i>Domestic Violence Prevention and Protection Act 2011</i>
Nauru:	<i>Domestic Violence and Family Protection Act 2017</i>
New Zealand	<i>Family Violence Act 2018</i>
Niue:	<i>Part 5 The Family Relationships Act 2022</i>
Palau:	<i>Title 21 Chapter 8 Part 2 Palau National Code, (introduced by the Palau Family Protection Act 2012)</i>
Papua New Guinea:	<i>Family Protection Act 2013</i>
Queensland:	<i>The Domestic and Family Violence Prevention Act 2014</i>
Samoa:	<i>Family Safety Act 2013</i>
Solomon Islands:	<i>Family Protection Act 2014</i>
Tonga:	<i>Family Protection Act 2013</i>
Tuvalu:	<i>Family Protection and Domestic Violence Act 2014</i>
Vanuatu:	<i>Family Protection Act 2008</i>

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
Legislation	Domestic and Family Violence Protection Act 2014	Family Protection Act 2013	Family Safety Act 2013	Family Protection and Support Act 2017	Family Protection Act 2013	Family Protection Act 2014	Domestic Violence Act 2009	Domestic Violence and Family Protection Act 2017	Family Protection Act 2008
Civil protection application?	Yes - s.32	Yes - s.9	Yes - s.4	Yes - s.97	Yes - s.7	Yes - s.19	Yes - s.22	Yes - s.18, 19, 20	yes - s.11
Who can apply?	Police, aggrieved, authorised person	Complainant, family member, friend, guardian, registered counsellor, lawyer, health practitioner, head of school, police officer	Complainant or person acting on their behalf	Person who is in a domestic relationship with another; person who has interest in that person's safety; someone with written consent to do so	(a) the complainant; or (b) any person on behalf of the complainant if the complainant has given his or her written consent for that person to make the application; or (c) a qualified legal practitioner on behalf of the complainant if the complainant has given his or her written consent for that practitioner to make the application; or (d) a police officer on behalf of the	Section 19 - (a) the vulnerable person; (b) a parent or legal guardian of the vulnerable person; (c) a person over the age of 18 years who cares for the vulnerable person; (d) a social welfare officer; (e) a police officer.	s.19 - To protect an adult: the adult themselves, or another person who is normally caring for or currently caring for the adult. To protect a child: a parent or guardian, an adult whom the child resides with (usually or temporarily), the child if they are 16 years old and married, or the child if under 16 and with the court's leave. Other persons with standing include Police officers, the Director of Social Welfare, the Fiji Trustee Corporation if appointed to	Family or household member on their behalf or on behalf of minor/incapacitated person; agency on behalf of minor/incapacitated person	s.27 - (a) the complainant; or (b) a friend or other family member on behalf of the complainant if the complainant has given his or her oral or written consent for that friend or family member to make the application; or (c) a qualified legal practitioner on behalf of the complainant if the complainant has given his or her oral or written consent for that practitioner to make the application; or (d) a police officer on behalf of the complainant if the complainant has given his or her oral or written

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
					complainant if the complainant has given his or her written consent for that officer to make the application.`		undertake that person's financial affairs, an appointed guardian under the Fiji Trustee Corporations Act 2006, and <u>any other person where it appears to the Court to be necessary for the safety or wellbeing of the victim.</u>		consent for that officer to make the application. (2) An authorised person may apply on behalf of the complainant to a court for a family protection order.
Trial court?	Magistrates Court. NB Childrens and criminal court has concurrent jurisdiction	Magistrates or Supreme Court	District Court	High Court	District Court, unless otherwise indicated. Village Court has jurisdiction to make interim protection order (s.12)	Magistrates Court - s.14	Magistrates Court when constituted by resident magistrate, Family Division of the Magistrates Court, the Family Division of the High Court, a Juvenile Court, and the High Court - s.8	District Court	Magistrates Court or Island Court
Appellate court?	District Court - s.169	Supreme Court or Court of Appeal	Supreme Court	Court of Appeal	National Court (equivalent to QLD Supreme Court)	High Court - s.44	Family Division of the High Court, Court of Appeal. Leave required where decision being appealed is an appeal from the Family Division of the High Court	Supreme Court	Supreme Court, then Court of Appeal

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
Can criminal court also make protection order after conviction?	Yes - s.42	Yes - s.11	Unclear	Unclear	Yes - s.22	Yes - s18	Yes - s.26	Yes	Yes
Elements of cause of action?	1. Relevant relationship 2. Act of Domestic Violence 3. Order is Necessary or Desirable	1. Domestic relationship 2. Act of domestic violence committed or at risk of being committed 3. Order necessary or Desirable	Sufficient evidence that respondent has committed or is committing act of DV	1. Domestic relationship 2. committed or will commit DV	S.16- (a) defendant has committed an act of DV; (b) defendant is likely to commit act of DV. Court MUST also consider (a) the need to ensure that the complainant is protected from domestic violence ; and (b) the safety and well-being of the complainant; and (c) the safety and well-being of other family members; and (d) any other matter the court considers relevant.	See s.29 - Court may make the order if satisfied on the balance of probabilities that 1. the respondent has committed or is likely to commit domestic violence against the affected person. 2. the making of an order is necessary to protect the affected person from domestic violence. 3. (if affected person is a vulnerable person e.g. child) the order is in the best interests of the vulnerable person.	1. Person is or has been in a family or domestic relationship with respondent; 2. respondent has committed, is committing or likely to commit DV, 3. making of the order is necessary for the safety and wellbeing of the person relevant to the application	s.19 (permanent protection order) - (a) has habitually committed an act of domestic violence against the victim; (b) is likely to repeat an act of domestic violence against the victim; (c) has breached the safety or interim protection orders; or (d) has received a report from a counsellor under Part 5 of the Act that the parties cannot reconcile.	(1) A court may, on an application made under section 28, make a protection order against a defendant if the court is satisfied that:

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
What is DV/FV?	s. 8 - behaviour that is physically or sexually abusive, emotionally or psychologically abusive, economically abusive, threatening, coercive, in any other way controls or dominates the other and causes them fear for their or another's wellbeing/safety	s.4 - act or omission beyond the reasonable expectations and acceptances of family and domestic life that causes physical abuse, sexual abuse, mental abuse, or harms or endangers health, safety or wellbeing. Also extends to economic abuse.	(a) physical abuse; (b) sexual abuse; (c) emotional, verbal and psychological abuse; (d) intimidation; (e) harassment; (f) stalking; (g) any other controlling or abusive behaviour towards a complainant where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the complainant	Behaviour in domestic relationship which is (a) physical abuse: (b) sexual abuse: (c) economic abuse: (d) emotional, verbal, or psychological abuse: (e) stalking: (f) causing the death of, or injury to, an animal, even if the animal is not person P's property: (g) any conduct that reasonably arouses in person P apprehension or fear of— (i) personal injury; or (ii) damage to property: (h) causing or allowing another person to engage in any conduct described in paragraphs (a)-(i): (i) a threat of any conduct described in paragraphs (a)-	Section 5 - (a) assaults the family member (whether or not there is evidence of a physical injury); or (b) psychologically abuses, harasses or intimidates the family member; or (c) sexually abuses the family member; or (d) stalks the family member so as to cause him or her apprehension or fear; or (e) behaves in an indecent or offensive manner to the family member; or (f) damages or causes damage to the family member's property; or (g) threatens to	Offender is in a domestic relationship and commits conduct which constitutes (a) physical abuse; (b) sexual abuse; (c) psychological abuse; (d) economic abuse.	s.3 - physical injury or threatening physical injury, sexual abuse of threatening sexual abuse, damaging or threatening to damage property, threatening intimidating or harassing, persistently behaving in a cruel inhumane degrading provocative or offensive manner, causing the victim to fear, causing or allowing child to see violence as referenced above, causing another person to do any of the above acts to a victim	A person commits DV if they have been or are in a domestic relationship - (a) assault; (b) coercive control; (c) economic and financial abuse; (d) sexual violence; (e) stalking; (f) persistently behaving in an abusive, cruel, inhumane, degrading, provocative or offensive manner; and (g) damage to property;	Section 4 - A person commits an act of domestic violence if he or she intentionally does any of the following acts against a member of his or her family: (a) assaults the family member (whether or not there is evidence of a physical injury); (b) psychologically abuses, harasses or intimidates the family member; (c) sexually abuses the family member; (d) stalks the family member so as to cause him or her apprehension or fear; (e) behaves in an indecent or offensive manner to the family member; (f) damages or causes damage to the family

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
				(i): (j) any of the above against a person in a domestic relationship with person P if that conduct or this i is intended to arouse an apprehension of fear in person	do any of the acts in Paragraphs (a), (c) or (f). (2) Without limiting Paragraph (1) (d), a person may stalk another person by - (a) following the person; or (b) watching the person; or (c) loitering outside the premises where the person lives, works or frequents for the purposes of any social or leisure activity; or (d) making persistent telephone calls, sending persistent text messages or other forms of communications				member’s property; (g) threatens to do any of the acts in paragraphs (a) to (f).

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
					<p>to the person or to the premises where the person lives or works.</p> <p>(3) For avoidance of doubt -</p> <p>(a) a single act may amount to an act of domestic violence ; and</p> <p>(b) a number of acts that form part of a pattern of behaviour may amount to domestic violence even though some or all of those acts when viewed in isolation may appear to be minor or trivial</p>				
What is a relevant relationship?	s. 13 - intimate personal relationship, family relationship, informal care relationship	s.5 - are/were married, lived/live together, parents of child, same household/residence, dependant on the other etc.	s.5 - are/were married, lived/live together, parents of child, same household/residence, dependant on the other etc.	Domestic relationship - a) is or was previously in a marriage or de facto relationship with the other person; or (b) is or was previously in a close personal relationship with	<p>Section 2 - "Family member":</p> <p>(a) the spouse of the person; or</p> <p>(b) a child of the person or a child of the person's spouse; or</p> <p>(c) a parent of the</p>	See s.5 - Domestic relationship is they are or have been family members; or (b) they are the parents of a child or are persons who	spouse, other family member, person who normally or regularly resides in the household or residential facility, boyfriend or girlfriend, person who is wholly or partially	(a) is a spouse or partner of the other person; (b) is a family member of the other person; (c) ordinarily shares a household with the other person; (d) is dependent on the other	<p>Each of the following is a member of a person's family:</p> <p>(a) the spouse of the person;</p> <p>(b) a child of the person and/or the person's spouse;</p>

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
				the other person; or (c) has a child with the other person (whether or not the person is or was previously in a marriage or de facto relationship with the other person); or (d) is a family member of the other person; or (e) is a domestic worker for the other person; or (f) is dependent on the other person for help with an activity of daily living required because of disability, illness, or impairment; or (g) shares or recently shared the same residence as the other person; or (h) is a child who— (i) ordinarily resides or resided with the other person; or (ii) regularly resides or stays,	person or a parent of the person's spouse; or (d) a grandparent; or (e) a brother or sister of the person or a brother or sister of the person's spouse; or (f) any other person who is treated by the spouse as a family member.	have or have had parental responsibility together for a child; or (c) they are or were in an engagement, courtship or customary relationship, including an actual or perceived intimate or sexual relationship of any duration; or (d) one person is a domestic worker in the other person's household.	dependent on ongoing paid or unpaid care or person who provides such care	person for regular support because of disability, illness, or impairment; or (e) has a close personal relationship with the other person.	(c) a parent of the person or the person's spouse; (d) a brother or sister of the person or the person's spouse; (e) any other person who is treated by the person as a family member.

	Queensland	Tonga	Samoa	Cook Islands	PNG	Solomon Islands	Fiji	Nauru	Vanuatu
				or resided or stayed, with the other person.					
Ability to protect named persons?	Yes - s.52	Yes - s.12(4)	Yes - s.10 (children)	Yes - s.104 (extends to other household members)	Yes - may include name of a family member: see s.16(3)	See - s.7, includes "affected person"	Yes - s31(children of protected person), 30 (spouse of protected person)	Yes - s.17	Yes - s.12
Temporary order available?	Yes - s.44	Yes - ss.13, 14	Yes - s.5	Yes - s.99	Yes - s.12	Yes - s.23	Yes - s.22	Yes. S17	Yes - s.17 to 20
Conditions of orders - be of good behaviour	Yes - 56. Mandatory standard condition	Yes - s.16. Mandatory standard condition	Yes - s.9	Yes - s.102. Mandatory	Yes - s.8	Yes - s.35. Mandatory	Yes - s27. Mandatory non-molestation order	Yes - s.16, 17	Yes - s.12
Conditions of orders - ouster order available?	Yes - s.63	Yes - s.17	Yes - s.10	Yes - s.102. Mandatory	Yes - s.10	Yes - s36	Yes - s.35	Yes - s.17	Yes - 13
Conditions of orders - ban on holding weapons?	Yes - see ss.27A and 28A of Weapons Act 1990	Yes - s16. Mandatory standard condition	Yes - s.10	Yes - s.103	No specific legislative power	Yes - s.35. Mandatory	Yes - s.33	Yes - s.17	Yes - s.14
Varying orders?	Yes - s.86	Yes - s.20	Yes - s.12	Yes - s.106	Yes - s.24, only persons to whom order applies can apply to vary	Yes - s.41	Yes - s. 38	Yes - s.17	Yes - s.38
Do rules of evidence apply?	No - 145, balance of probabilities, may inform itself in any way it considers appropriate	Yes - Act silent about rules of evidence	No - s.19	Yes - Act suggests that normal rules of evidence apply - see s.122(7)(c). Where evidence is from a child, Court can 'hear any evidence that it thinks fit' see s.134(1).	Yes, but note s.15(1) which provides "A court may make an interim-protection order on such evidence as the court considers sufficient and	Yes - but note s.24(4) re: interim orders: "An interim protection order need only be supported by the evidence that the Court or authorised	No - s.48, the Court may receive any evidence that it thinks fit whether or not it is admissible in a court of law	No - s.42 the Court may receive any evidence which the Court considers necessary for it to make a decision, determination or direction for the granting or refusal	No - s.32 - In proceedings under this Act (other than proceedings for an offence), a court or authorised person may receive any evidence that the court or authorised

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					appropriate having regard to the interim nature of the order."	justice considers sufficient and appropriate having regard to the temporary nature of the order"		of a protection order under the provisions of this Act whether the evidence is admissible or not by law.	person thinks fit, whether the evidence is otherwise admissible in a court or not.
Prohibitions on cross-examination?	Yes - s.151, Court may order self-represented respondent not to cross-examine protected witness (wider than just the aggrieved/applicant).	Act silent - no subordinate rules	Yes - s.8(1). Court needs to be satisfied that it is 'just or desirable' to order a self-represented litigant to not directly cross-examine a witness who is in a domestic relationship with the respondent.	No specific legislative prohibition in Act or rules	No specific legislative prohibition	No specific legislative prohibition	Yes - s52.	Act silent	No specific legislative prohibition
Criminal offence for breaching protection order?	Yes - ss.177, 178	Yes - s.28	Yes - s.11	Yes - s.118	Yes - s.20	Yes - ss. 58, 59	yes - s.77	Yes - s.34	Yes - s.21
Costs orders?	Generally presumption that parties bear their own costs - s.157. Presumption doesn't apply for appeals	Act silent - Generally costs follow the event	Act silent	Act silent	Act silent	Act silent	Generally parties bear their own costs - s.55	Act silent	No costs order unless proceedings are frivolous or vexatious - s.42

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Police issued domestic violence order?	Yes - ss.101 and 101A (police protection notice)	Yes - ss.22 and 23 (Police Safety Order)	No	Yes - ss.108 to 115 (Police Safety Notice)	No	Yes - ss.12 to 16 (Police Safety Notice)	No	Yes - ss.12 and 13 (Safety Orders)	No
Can respondent consent without admissions to an order?	Yes - s.52	Act silent	Act silent	Act silent	Act silent	Act silent	No - s.53 (consent requires respondent to admit that there are grounds for the order)	Act silent	Yes - s.24(2)