



Police Safety Orders July 2010

Amendments to the Domestic Violence Act 1995 now enable the Police to issue on -the-spot 'Police Safety Orders' ('PSO').

Under the new legislation, a police officer (ranked Sergeant or above) may issue a PSO in situations where the parties are in a domestic relationship, and where the Police have reasonable grounds to believe that family violence has or may occur but insufficient evidence exists to enable an arrest.

In issuing a PSO, the police officer must consider whether a domestic relationship exists, whether domestic violence has occurred, whether there is a likelihood that the offender will use domestic violence against the victim in the future, the welfare of any children, and any other matters the officer considers relevant. Importantly, a PSO cannot be issued if the offender is arrested for any violent offences against the victim.

The PSO may last for up to 5 days and provides the victim with immediate protection. It is hoped that the order will provide a way of filling the gap between an incident occurring and the issuing of a Temporary Protection Order.

An important element of the PSO is that, unlike a protection order which is made on the request of the victim, it does not require the victim's consent. As a result, victims who are too scared or intimidated to seek a protection order themselves may nevertheless be afforded the necessary interim protection to enable them to take further steps to secure their ongoing safety if they wish.

The person bound by the PSO must:

- vacate the premises for up to 5 days (even if the home is owned by the offender)
- surrender all firearms and their firearms license for the period of the PSO
- not use domestic violence against the protected person for the period of the PSO, or encourage anyone else to do so. "Domestic violence" has a broad meaning which includes physical, psychological and sexual abuse.
- not contact the protected person for the duration of the PSO

A PSO also protects any children who live with the protected person and suspends any parenting orders, contact or care arrangements that benefit the person bound by the PSO.

The conditions of a PSO are similar to those under a protection order issued by the Family Court. However, unlike a protection order, the protected person under a PSO cannot consent to reside with the offender.

The breach of a PSO is not a criminal offence, though the bound person can be taken into custody and must appear before the Court. The Court may then:

- direct the Police to issue a further PSO
- release the bound person without further order, or
- issue a temporary protection order if the victim does not object, upon which the matter must be transferred to the nearest Family Court

These orders have been instigated to guard against situations where a victim of domestic violence urgently needs protection from an offender until they are able to take further steps to obtain a protection order if they wish. In order to ensure ongoing protection a protection order will still be required once the PSO has expired.

For more information, please contact one of our offices.

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