



Interim Procedures for Serious Domestic Abuse Prevention Orders

1. Application for a Serious Domestic Abuse Prevention Order

1.1 Filing and Listing of Application

- (a) Application to be filed by NSW Commissioner of Police or the ODPP in the agreed form.
- (b) The Registry is to list the application for Mention in the next AVO list (irrespective of service)

1.2 First Mention

- (a) If the Respondent is present and consents to orders being made, the Application can be granted on the grounds of the Application, provided the Court is satisfied under s87B of the Crimes (Domestic and Personal Violence) Act 2007 ("the Act").
- (b) If the Respondent is present but opposes the Application, the Court is to:
 - i. Check the time estimate for hearing as nominated in the Application by the Applicant.
 - ii. List the matter for hearing so that a date is obtained without delay. In the absence of a clear time estimate, list for hearing for 3 hours.
 - iii. Make a timetable as follows:
 - (A) Applicant to file and serve supporting material – 4 weeks,
 - (B) Respondent is to file and serve material – 4 weeks thereafter,
 - (C) List the matter for a compliance check – at 10 weeks, and
 - (D) The parties are to provide a listing advice on the compliance check date.
- (c) If the Respondent is not present or legally represented and the Application has been served:
 - i. The Application can be granted on the grounds of the Application provided the Magistrate is satisfied under s87B of the Act.
- (d) If the Respondent is not present and has not been served, the Court is to:
 - i. Direct the Registrar to notify the Respondent.
 - ii. List the matter for hearing so that a date is obtained without delay. In the absence of a clear time estimate, list for hearing for 3 hours.
 - iii. Make a timetable as follows:
 - (A) Applicant to file and serve supporting material – 4 weeks, and
 - (B) List the matter for a compliance check and to confirm the hearing date – at 6 weeks.

1.3 Compliance Check Date

- (a) The Applicant is to confirm that the Respondent has been served with the Application. If the Respondent has not been served, the Court is to list the matter for a further mention 14 days prior to the hearing date.
- (b) If the Respondent is present but opposes the Application, the Court is to:



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- i. Confirm if the Applicant has filed and served supporting material.
 - ii. Place the Listing advice on the bench papers.
 - iii. Confirm the hearing date and time estimate.
 - (c) The Respondent is excused from attending court on the Compliance Check Date only if legally represented.
 - (d) If the Respondent is not present or legally represented and the Application has been served, the Application can be granted on the grounds of the Application provided the Magistrate is satisfied under s87B of the Act.
- 1.4 Mention 14 Days Prior to the Hearing Date
- (a) The Applicant is to confirm that the Respondent has been served with the Application and is aware of the hearing date.
 - (b) If the Respondent has not been served, the Court is to make further orders for service to occur prior to the hearing date, if appropriate, or otherwise vacate the hearing date and obtain a new hearing date.
- 1.5 If a SDAPO has been made and a Stay is sought by Respondent
- (a) If the Respondent wishes to make a stay Application, this must be filed with the Registry in writing in the agreed form.
 - (b) Wherever possible, it is preferable that a stay Application should come back before the same Magistrate that heard the original Application. If this is not possible, then a different Magistrate may make a determination of the stay Application (and likely set it down for 1 hour to allow for reading).
- 2. Application to Vary or Revoke a Serious Domestic Abuse Prevention Order**
- 2.1 Filing and Listing of Application
- (a) The Application is to be made in the agreed form.
 - (b) The Registry is to list the Application for Mention in the next AVO list (irrespective of service).
- 2.2 First Mention
- (a) If the Applicant is the person against whom the Order was made, the Application can only be made with leave of the Court.
 - (b) Leave to hear the Application under 2.2 (a) can be considered at the first mention if there is sufficient information before the Court as to whether there has been a substantial change in the relevant circumstances since the order was last made or varied, otherwise it can be determined on the day of hearing.
 - (c) If the Respondent is present and consents to the variation/revocation, the Application can only be granted if the Court is satisfied as to the matters in section 87G(3) of the Act.
 - (d) If the Respondent is present but opposes the Application, the Court is to:
 - i. List the matter for hearing so that a date is obtained without delay. In the absence of a clear time estimate, list for hearing for 3 hours.
 - ii. Make a timetable as follows:



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- (A) Applicant to file and serve supporting material – 4 weeks,
 - (B) Respondent is to file and serve material – 4 weeks thereafter, and
 - (C) List the matter for a compliance check and to confirm the hearing date – at 10 weeks.
- (e) If the Respondent is not present and the Application has been served, the Court is to:
- i. If the Applicant is the person against whom the Order was made, direct the Registrar is to notify the NSW Commissioner of Police or the ODPP of the Application and the next Court date (noting that the Court must allow all parties to the proceedings for the original order a reasonable opportunity to be heard on the matter (s87G(3)(a) of the Act)).
 - ii. List the matter for hearing so that a date is obtained without delay. In the absence of a clear time estimate, list for hearing for 3 hours.
 - iii. Make a timetable as follows:
 - (A) Applicant to file and serve supporting material – 4 weeks,
 - (B) List the matter for a compliance check and to confirm the hearing date – at 6 weeks, and
 - (C) The parties are to provide a listing advice on the compliance check date.
- (f) If the Respondent is not present and the Application has not been served, the Court is to:
- i. If the Applicant is the person against whom the Order was made, direct the Registrar to notify the NSW Commissioner of Police or the ODPP of the Application and the next Court date .
 - ii. List the matter for hearing so that a date is obtained without delay. In the absence of a clear time estimate, list for hearing for 3 hours.
 - iii. Make a timetable as follows:
 - (A) Applicant to file and serve supporting material – 4 weeks, and
 - (B) List the matter for a compliance check and to confirm hearing date – at 6 weeks.

2.3 Compliance Check Date

- (a) The Applicant is to confirm that the Respondent has been served with the Application.
- (b) If the Respondent is present and opposes the Application, the Court is to:
 - i. Confirm if the Applicant has filed and served supporting material.
 - ii. Make a timetable for the filing and serving of the Respondent's material and confirm the hearing date and time estimate.
 - iii. Listing advice is required.
- (c) If the Respondent has been served and is aware of the date, but is not present or legally represented; the Court can vary or revoke the Order, but must first have regard to the matters set out in s87G(3) of the Act.



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- (d) If time does not permit the Court to make its decision in the absence of the other party on the date of the compliance check, confirm the hearing date.
- (e) If the Respondent has still not been served and is unaware of the date, the Court is to adjourn the matter for further mention to allow for service in 6 weeks.

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