



Last updated: 18 October 2018

Preliminary considerations

1.	<p>Has the respondent committed family violence against any children of the AFM or respondent? s 73I</p> <p>Note the answer and go to 2</p>
2.	<p>Is there an existing personal safety intervention order between the affected family member and the respondent?</p> <p>If yes, then a final order cannot be made – s 74A</p> <p>If no, go to 3</p>

Final orders in absence of the Respondent

3.	<p>Is the Respondent present at court?</p> <p>If yes, go to 5</p> <p>If no, go to 4</p>
4.	<p>Has the respondent been served with the application?</p> <p>If yes, go to 9</p> <p>If no, consider whether to make orders for alternative or substituted service? ss 202, 202A, 202C</p>

Consent Orders

5.	<p>Are the parties consenting to a final order being made?</p> <p>If yes, Court must still consider the matters listed on mandatory considerations checklist and can still elect to:</p> <ul style="list-style-type: none"> • Conduct a hearing if in the interests of justice • Refuse to make order if may pose risk to safety¹ of party or child of protected person or respondent - s 78. <p>Then go to 6</p> <p>If no, go to 9</p>
6.	<p>Is the respondent an adult or a child?</p> <p>If adult, final order can be made (after addressing mandatory considerations checklist) – s 78</p> <p>If child, final order can only be made if satisfied there are grounds for the order under ss 74 or 76 – see s 78</p> <p>Then go to 7</p>



7.	<p>Has the respondent committed family violence against a child of the respondent or affected family member? See 1 above</p> <p>If yes, go to 8</p> <p>If no, go to 14</p>
8.	<p>If the final order by consent does not include the child, the court must make a separate final order for the child as protected person unless satisfied it is not necessary to protect the child from family violence by the respondent</p> <p>Go to 14</p>
Contested final orders	
9.	<p>Has respondent committed family violence against the affected family member and are they likely to do so again? s 74</p> <p>If yes, go to 10</p> <p>If no, refuse order for the AFM and go to 12 if there is a child of the AFM or respondent</p>
10.	<p>Has the respondent committed family violence against a child of the respondent or affected family member? See 1 above</p> <p>If yes, go to 11</p> <p>If no, go to 14</p>
11.	<p>The court must either include the child on the final order as a protected person or make a separate final order for the child as protected person unless satisfied that it is not necessary to do so to protect the child from family violence by the respondent.</p> <p>Then go to 14</p>
12.	<p>Has the respondent committed family violence against a child of the respondent or affected family member? See 1 above</p> <p>If yes, go to 13</p> <p>If no, dismiss the application</p>
13.	<p>The court may make a final order for the child on its own initiative if satisfied that the respondent is likely to continue to commit family violence against the child or to commit family violence against the child again – s 77B</p> <p>If the court decides to make a final order for the child, go to 16</p> <p>Otherwise dismiss the application</p>



Conditions for orders

14.	<p>Was the application for an intervention order:</p> <ul style="list-style-type: none">• Made by police;• In which the AFM is a competent adult? s 75 <p>If yes to both, go to 15</p> <p>If no to either, go to 16</p>
15.	<p>Has the AFM consented to the application?</p> <p>Note the answer and go to 16</p>
16.	<p>Determine conditions of final order by reference to ss 80-81</p> <p>Give paramount consideration to safety of AFM and children</p> <p>Include any conditions necessary or desirable, including any of the conditions listed in s 81</p> <p>Consider including exclusion condition – ss 82, 83</p> <p>If the AFM did not consent to the application (see 15 above), conditions may only include:</p> <ul style="list-style-type: none">• Prohibition on family violence• Revocation of firearms authority, weapons exemption or weapons authority• Prohibition on respondent from causing another to engage in prohibited conduct <p>Consider matters listed on mandatory considerations checklist</p> <p>Consider duration of order – s 97</p> <ul style="list-style-type: none">• If the respondent is a child, order cannot be made for longer than 12 months unless there are exceptional circumstances – s 98 <p>Then go to 117</p>
17.	<p>Give the parties a clear oral explanation of the order – ss 96, 96A</p> <p>Then go to 18</p>
18.	<p>Give the parties a written notice including the matters described in the oral explanation – ss 96, 96A</p>

¹ Note 'safety' means safety from family violence – s 4 – and the broad definition of 'family violence' in ss 5-7 that includes economic, emotional and psychological abuse.