Western Australia

Retail Barring Orders Act 2026

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Defined terms

Western Australia

Retail Barring Orders Act 2026

No. 17 of 2026

An Act —

- **to provide for orders to prevent people from committing retail violence or otherwise stalking or harassing retail workers by imposing restraints on their behaviour and activities; and**
- **to make related amendments to the *Children's Court of Western Australia Act 1988* and the *Courts and Tribunals (Electronic Processes Facilitation) Act 2013*; and**
- **for related purposes.**

[*Assented to 21 October 2026*]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Retail Barring Orders Act 2026*.

2. Commencement

This Act comes into operation as follows —

(a) Part 1 — on the day on which this Act receives the Royal Assent;

(b) the rest of the Act — on a day fixed by proclamation.

3. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

4. Objects of Act

The objects of this Act are to —

(a) protect retail workers and other persons on retail premises from retail violence; and

(b) protect retail businesses from the effects of retail violence; and

(c) protect retail workers, while not on retail premises, from stalking and harassment by persons who have committed retail violence; and

(d) help ensure members of the public can be confident that retail premises will be free from retail violence; and

(e) provide for a legally enforceable mechanism to prevent retail violence; and

(f) hold persons who commit retail violence accountable for their conduct.

5. Terms used

In this Act —

adult means a person who has reached 18 years of age;

child means a person under 18 years of age;

common area, in relation to a cluster of premises that makes up a retail shopping centre —

(a) means any area within, adjoining or adjacent to, or separating, the cluster of premises that is intended for —

(i) use by the public in the course of attending the retail shopping centre; or

(ii) use in common by retail businesses conducted on retail premises in the cluster of premises in connection with the conduct of the retail businesses;

and

(b) includes any stairway, escalator, elevator, mall, walkway, trafficway, parking area, toilet facilities, restroom, garden or fountain that meets the requirements of paragraph (a);

community titles scheme has the meaning given in the *Community Titles Act 2018* section 3(1);

contractor, of a retail business, includes —

(a) an employee of a contractor of the retail business; and

(b) a subcontractor, and an employee of a subcontractor, of a contractor of the retail business; and

(c) a person, and an employee of a person, with whom a subcontractor specified in paragraph (b) contracts;

electronic means includes —

(a) an electronic database or document system; and

(b) another means by which a document can be given or accessed electronically;

eligible person has the meaning given in section 8(3);

employer, for retail premises —

(a) means a person who employs or engages 1 or more persons to work as retail workers on the retail premises for the retail business conducted on the retail premises; but

(b) does not include a labour hire agency;

explosive means a substance or article that is controlled as an explosive under the *Dangerous Goods Safety Act 2004*;

explosives licence means a licence, permit or authorisation to hold an explosive under the *Dangerous Goods Safety Act 2004*;

firearm item means any of the following as those terms are defined in the *Firearms Act 2024* section 5 —

(a) a firearm;

(b) a major firearm part;

(c) a prohibited accessory;

(d) ammunition;

firearms authorisation means —

(a) a licence, permit, approval or exemption under the *Firearms Act 2024* that entitles a person to be in possession of a firearm item; or

(b) a licence card (as defined in section 206 of that Act) issued in respect of a licence, permit, approval or exemption referred to in paragraph (a);

firearms restraint has the meaning given in section 19(1);

first hearing RBO means an RBO referred to in section 11(1)(a);

mention hearing means a hearing fixed under section 10(5), 11(1)(b), 31(2) or 42(2)(a)(i);

other party to the application, in relation to a set aside application, means —

(a) if the application is made under section 38(1) — the person who was the respondent to the RBO application; or

(b) if the application is made under section 38(2) — the person who was the applicant for the RBO;

person who is bound, in relation to an RBO, means the person named in the RBO on whose lawful activities and behaviour restraints are imposed by the RBO;

premises means the whole or any part of a building, place, stall, structure, tent, vehicle or yard;

RBO application has the meaning given in section 8(1);

RBO hearing means a hearing fixed under section 32, 33(3)(c) or 42(2)(a)(ii);

RBO proceedings —

(a) means proceedings in the Magistrates Court or the Children's Court on —

(i) an RBO application; or

(ii) a set aside application; or

(iii) an application to vary or cancel an RBO;

but

(b) does not include proceedings for an offence under this Act;

registrar —

(a) in relation to proceedings under this Act in the Magistrates Court — means a registrar (as defined in the *Magistrates Court Act 2004* section 3); or

(b) in relation to proceedings under this Act in the Children's Court — means a person appointed, or taken to be appointed, under the *Children's Court of Western*

Australia Act 1988 section 16 as a registrar or deputy registrar of the Children's Court;

relevant order has the meaning given in section 63;

respondent means a person against whom an RBO is sought;

responsible adult, in relation to a child, means a parent of the child, a guardian of the child or another person having responsibility for the day-to-day care of the child;

retail barring order (***RBO***) means an order made under section 12 imposing restraints of the kind referred to in section 17;

retail business means a business that involves any sale of goods by retail, including by auction;

retail premises —

(a) means premises on which a retail business is conducted; and

(b) if premises referred to in paragraph (a) are part of a retail shopping centre — includes any common area of the cluster of premises that makes up the retail shopping centre; and

(c) if premises referred to in paragraph (a) are not part of a retail shopping centre — includes any parking area or toilet facilities adjoining or adjacent to the premises and intended for use by —

(i) the public in the course of attending the premises; or

(ii) the retail business conducted on the premises in connection with the conduct of the retail business;

retail shopping centre means a cluster of 3 or more premises that has all of the following attributes —

(a) at least 2 of the premises are retail premises as defined in paragraph (a) of the definition of that term;

(b) the premises are —

(i) adjoining or adjacent to each other; or

(ii) within, adjoining or adjacent to a common area; or

(iii) separated only by a common area;

(c) the premises —

(i) are all owned by the same person; or

(ii) all have (or, if leased, would have) the same lessor or the same head lessor; or

(iii) are all lots in the same strata titles scheme; or

(iv) are all lots in the same community titles scheme;

(d) the cluster of premises is promoted as, or generally regarded as constituting, a shopping centre, shopping mall, shopping court or shopping arcade;

retail violence has the meaning given in section 6;

retail worker, in relation to retail premises —

(a) means a person who performs duties on the retail premises for the retail business conducted on the retail premises, including as an employee or apprentice of, or volunteer for, the retail business; and

(b) includes the person who conducts the retail business; but

(c) does not include a person who performs duties as a contractor of the retail business, unless —

(i) the duties performed are part of the day-to-day operations of the retail business; and

(ii) the person is subject to the control and direction of the person who conducts the retail business in the performance of their duties;

senior police officer means a police officer who is, or is acting as, a sergeant or an officer above the rank of sergeant;

set aside application has the meaning given in section 38(1) and (2);

stalking, a person, includes committing an offence under *The Criminal Code* Chapter XXXIIIB against the person;

strata titles scheme has the meaning given in the *Strata Titles Act 1985* section 3(1);

union means —

(a) an organisation of employees registered, or taken to be registered, under the *Fair Work (Registered Organisations) Act 2009* (Cth); or

(b) an organisation of employees, or an association of employees, registered under the *Industrial Relations Act 1979*.

6. Retail violence

(1) A person commits ***retail violence*** if the person, while on retail premises, engages in any of the following behaviour in relation to another person on the retail premises —

(a) physical violence or abuse;

(b) sexual violence or abuse;

(c) threatening behaviour;

(d) stalking;

(e) harassing, intimidating or offensive behaviour.

(2) A person who procures another person to commit retail violence is taken to have also committed the retail violence.

7. *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Pt. 2 applies

The *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* Part 2 applies to this Act.

Part 2 — Retail barring orders

Division 1 — Applying for an RBO

8. Who may apply for RBO

(1) An eligible person for retail premises may make an application (an ***RBO application***) for an RBO against a person on the basis that the person has committed retail violence while on the retail premises.

(2) An RBO application cannot be made later than 12 months after the day on which the retail violence is alleged to have been committed.

(3) Each of the following is an ***eligible person*** for retail premises —

(a) the employer for the retail premises;

(b) if there is no employer for the retail premises — the person who conducts the retail business on the retail premises;

(c) if the retail premises are in a retail shopping centre — the owner of the retail shopping centre or a person authorised by the owner under subsection (5);

(d) a union —

(i) entitled to represent the industrial interests of persons who work as retail workers on the retail premises; and

(ii) of which a person who works as a retail worker on the retail premises is a member, or eligible to be a member.

(4) Each of the following is an ***owner*** of a retail shopping centre —

(a) if the retail premises in the retail shopping centre are all owned by the same person — the person;

(b) if the retail premises in the retail shopping centre all have (or, if leased, would have) the same lessor or the same head lessor — the lessor or head lessor;

(c) if the retail premises in the retail shopping centre are all lots in the same strata titles scheme — the strata company (as defined in the *Strata Titles Act 1985* section 3(1)) for that scheme;

(d) if the retail premises in the retail shopping centre are all lots in the same community titles scheme — the community corporation (as defined in the *Community Titles Act 2018* section 3(1)) for that scheme.

(5) For the purposes of subsection (3)(c), an owner of a retail shopping centre may authorise a person who manages the day-to-day operations of the retail shopping centre to make an RBO application on the owner's behalf.

(6) An authorisation under subsection (5) must be in writing.

9. Applicant may request first hearing in absence of respondent

The applicant for an RBO may request that the first hearing of the RBO application be held in the absence of the respondent on the basis that there is an immediate risk that the respondent will commit retail violence, or otherwise stalk or harass a person who works as a retail worker, on the retail premises stated in the RBO application.

10. RBO application

(1) An RBO application must be made to —

(a) if the respondent is a child — the Children's Court; or

(b) otherwise — the Magistrates Court.

(2) An RBO application must state —

(a) the retail premises on which the retail violence is alleged to have been committed; and

(b) the date on which the retail violence is alleged to have been committed; and

(c) whether the applicant requests that the first hearing of the RBO application be held in the absence of the respondent on the basis referred to in section 9.

(3) An RBO application must be made in accordance with the rules of court.

(4) If an RBO application is made, and the RBO application states that the applicant requests that the first hearing of the RBO application be held in the absence of the respondent on the basis referred to in section 9, a hearing for that purpose must be fixed.

(5) If an RBO application is made, and subsection (4) does not apply, a registrar must fix a mention hearing and summons the respondent to attend the hearing.

11. Making RBO at first hearing in absence of respondent

(1) At a hearing fixed under section 10(4) the court may —

(a) make an RBO against the respondent under Part 2 Division 2; or

(b) direct a registrar to fix a mention hearing and summons the respondent to attend the hearing; or

(c) at the request of the applicant, discontinue the RBO application.

(2) The hearing must be held in the absence of the respondent.

(3) If the applicant for an RBO does not attend the hearing and the court is satisfied the applicant was notified of the hearing, the court must dismiss the RBO application.

Division 2 — Making an RBO

12. Making RBO

A court may make an RBO against a person if —

(a) the court is satisfied that —

(i) there are grounds for making the RBO under section 13; and

(ii) the terms of the RBO are the least restrictive of the personal rights and liberties of the person as possible that still achieve the objects of this Act;

and

(b) the person is an individual who has reached 10 years of age.

13. Grounds for making RBO

Grounds for making an RBO against a person exist if —

(a) the person has committed retail violence on the retail premises stated in the RBO application; and

(b) the person is likely to —

(i) commit retail violence on those retail premises again; or

(ii) otherwise stalk or harass a person who works as a retail worker on those retail premises;

and

(c) in the case of a first hearing RBO, there is an immediate risk that the person will —

(i) commit retail violence on those retail premises; or

(ii) otherwise stalk or harass a person who works as a retail worker on those retail premises;

and

(d) making the RBO is appropriate in the circumstances.

14. Matters to which court must have regard

(1) In considering whether to make an RBO against a person and the terms of the RBO, a court must have primary regard to the need to ensure that retail workers and other persons on retail premises are protected from retail violence.

(2) The court must also have regard to the following —

(a) the need to ensure that retail premises are protected from the effects of retail violence, including property damage;

(b) the need to ensure that retail workers are protected, while not on retail premises, from stalking or harassment by the person;

(c) hardship that may be caused to the person or anyone else if the RBO is made;

(d) without limiting paragraph (c), whether the RBO is likely to prevent or interfere with the person or anyone else accessing essential goods or services;

(e) any previous similar behaviour of the person whether in relation to retail premises or otherwise;

(f) any RBO previously made by the court against the person;

(g) any contravention by the person of an order referred to in paragraph (f).

(3) The court may also have regard to the following —

(a) other current legal proceedings involving the person;

(b) any criminal convictions of the person;

(c) any RBO previously made by another court against the person;

(d) any other order made by a court against the person that is relevant;

(e) any Liquor Control Act order made against the person;

(f) any contravention by the person of an order referred to in paragraph (c), (d) or (e);

(g) any other matter the court considers relevant.

(4) In subsection (3)(e) —

Liquor Control Act order means any of the following —

(a) a barring notice as defined in the *Liquor Control Act 1988* section 115AA(2);

(b) a prohibition order as defined in the *Liquor Control Act 1988* section 152A;

(c) an exclusion order as defined in the *Liquor Control Act 1988* section 152NC;

(d) a banned drinker order as defined in the *Liquor Control Act 1988* section 152YB(1).

15. Court may have regard to own records

(1) The court may have regard to any of its own records for the purposes of section 14.

(2) Records referred to in subsection (1) are taken to be proof of their contents in the absence of evidence to the contrary.

16. Commissioner of Police to provide criminal record

(1) The Commissioner of Police must, where practicable, give to a court considering whether to make an RBO against a person any criminal record of the person in the possession of the Police Force of Western Australia.

(2) The criminal record must be given in the form of a certificate signed by —

(a) a senior police officer; or

(b) a person —

(i) employed or engaged in the department of the Public Service principally assisting the Minister in the administration of the *Police Act 1892*; and

(ii) approved by the Commissioner of Police for the purposes of this subsection.

(3) A certificate under this section is, in the absence of evidence to the contrary, proof of the matters specified in it.

17. Restraints on person who is bound

(1) In this section —

specified, in relation to an RBO, means specified in the RBO.

(2) In making an RBO against a person, a court may impose restraints on the lawful activities and behaviour of the person that the court considers appropriate to reduce the likelihood of the person —

(a) committing retail violence; or

(b) otherwise stalking or harassing a person who works as a retail worker on retail premises.

(3) Without limiting the restraints that may be imposed under subsection (2), the RBO may restrain the person from doing all or any of the following —

(a) entering or being on specified retail premises;

(b) approaching within a specified distance of specified retail premises;

(c) stalking a specified person, a person who belongs to a specified class of person, or any person, who works as a retail worker on specified retail premises;

(d) communicating, or attempting to communicate, (by specified means or any means) with a specified person, a person who belongs to a specified class of person, or any person, who works as a retail worker on specified retail premises;

(e) engaging in behaviour of a specified kind, either at all or on specified retail premises, at a specified time or in a specified manner;

(f) being in possession of a firearm item or firearms authorisation, or applying for a firearms authorisation;

(g) being in possession of any explosives or an explosives licence, or applying for an explosives licence;

(h) causing or allowing another person to engage in conduct of a type referred to in paragraph (a), (b), (c), (d), (e), (f) or (g).

(4) A restraint may be imposed on the person absolutely or on the terms the court considers appropriate.

(5) An RBO may restrain the person from entering or being on premises, or restrict the person's access to premises, even if the person has a legal or equitable right to be on the premises.

(6) This section applies subject to section 18.

18. Restraints in relation to other retail premises

(1) A court must not impose restraints on a person under section 17(2) in relation to retail premises (***other retail premises***) other than the retail premises (the ***affected retail premises***) stated in the RBO application unless subsection (3) applies.

(2) A court must not impose restraints on a person under section 17(2) in relation to a person who works as a retail worker on other retail premises unless subsection (3) applies.

(3) This subsection applies if —

(a) the applicant for the RBO is an eligible person for the other retail premises; and

(b) the court is satisfied that the person is likely to —

(i) commit retail violence on the other retail premises; or

(ii) otherwise stalk or harass a person who works as a retail worker on the other retail premises.

(4) Without limiting the matters that the court may consider in order to be satisfied under subsection (3)(b), the court may have regard to the following —

(a) any pattern of behaviour by the person in relation to either or both of the affected retail premises and the other retail premises;

(b) any threats made by the person towards a person who works as a retail worker on either or both of the affected retail premises and the other retail premises;

(c) any past or present relationship between the person and any of the following —

(i) the affected retail premises;

(ii) the other retail premises;

(iii) a person who works as a retail worker on the affected retail premises;

(iv) a person who works as a retail worker on the other retail premises.

19. Firearms RBO

(1) In making an RBO against a person, a court must consider whether to impose a restraint (a ***firearms restraint***) under section 17(2) in relation to firearm items or firearms authorisations.

(2) If a court decides to impose a firearms restraint (whether when making an RBO or when making an order under section 50(1)(b) varying an RBO), the firearms restraint must prohibit the person who is bound by the RBO from —

(a) being in possession of a firearm item or firearms authorisation; and

(b) applying for a firearms authorisation.

(3) Despite section 17(4), a firearms restraint must be imposed on the person absolutely.

(4) A person who is bound by an RBO that includes a firearms restraint must give up possession, to a person and in a manner prescribed by the regulations, of all firearm items and firearms authorisations held by the person.

(5) A firearm item or firearms authorisation given up under subsection (4) is to be dealt with in a manner, and by a person, prescribed by the regulations.

(6) If a person who is subject to the operation of subsection (4) is lawfully in possession of a firearm item or firearms authorisation immediately before the RBO is made, or varied to include a firearms restraint, the person does not breach the RBO by reason only of being in possession of the firearm item or firearms authorisation during the period necessary to comply with subsection (4).

20. Explosives RBO

(1) In making an RBO against a person, a court must consider whether to impose a restraint (an ***explosives restraint***) under section 17(2) in relation to explosives or explosives licences.

(2) If a court decides to impose an explosives restraint (whether when making an RBO or when making an order under section 50(1)(b) varying an RBO), the explosives restraint may prohibit the person who is bound by the RBO from —

(a) being in possession of any explosives or an explosives licence; or

(b) applying for an explosives licence.

(3) Without limiting section 17(4), the terms on which an explosives restraint may be imposed may permit the person who is bound by the RBO to be in possession of explosives, and, if necessary, an explosives licence relating to the explosives, in circumstances specified in the RBO.

(4) A person who is bound by an RBO that includes an explosives restraint must, to the extent required by the restraint, give up

possession, to a person and in a manner prescribed by the regulations, of all explosives and explosives licences held by the person.

(5) An explosive or explosives licence given up under subsection (4) is to be dealt with in a manner, and by a person, prescribed by the regulations.

(6) If a person who is subject to the operation of subsection (4) is lawfully in possession of an explosive or explosives licence immediately before the RBO is made, or varied to include an explosives restraint, the person does not breach the RBO by reason only of being in possession of the explosive or explosives licence during the period necessary to comply with subsection (4).

21. RBO must specify person who is bound

An RBO must specify the name of the person on whose lawful activities and behaviour restraints are imposed by the RBO.

22. Explanation must be given

(1) A court that makes an RBO must explain to the person who is bound by the RBO —

(a) the purpose, terms and effects of the RBO; and

(b) the consequences that might follow if the person who is bound by the RBO contravenes the RBO; and

(c) that the RBO may be varied, cancelled or extended; and

(d) that support services may be of assistance.

(2) For the purposes of subsection (1)(d), the explanation may refer the person to specific support services.

(3) If the person who is bound by the RBO does not readily understand English, or the court is not satisfied that the person understood the explanation, the court must, as far as practicable,

arrange for an adult to give the explanation to the person in a way that the person can understand.

(4) If the person who is bound by the RBO is present in court when the RBO is made, the court must give the explanation to the person orally or in writing.

(5) If the person who is bound by the RBO is not present in court when the RBO is made, or it is not practicable for the court to give the explanation referred to in subsection (1) at the time the RBO is made, a registrar must cause a document containing the explanation to be served on the person.

(6) An RBO is not invalid merely because the person who is bound by the RBO was not given the explanation referred to in subsection (1).

23. Registrar must prepare and serve RBO

If a court makes an RBO against a person, a registrar of the court must —

(a) prepare the RBO in accordance with the rules of court; and

(b) cause the RBO to be served on the person.

Division 3 — When an RBO is in force

24. When RBO comes into force

An RBO comes into force —

(a) when the RBO is served on the person who is bound by the RBO; or

(b) if a later time is specified in the RBO — at that time.

25. Duration of RBO

(1) If a court makes an RBO, the court may specify in the RBO the period for which the RBO is in force.

(2) The period specified by the court must be —

(a) if the person who is bound by the RBO is an adult when the RBO is made — not longer than 2 years; or

(b) if the person who is bound by the RBO is a child when the RBO is made — not longer than 1 year.

(3) An RBO remains in force for —

(a) if a period is specified in the RBO — that period from the day on which the RBO comes into force; or

(b) if no period is specified in the RBO and the person who is bound by the RBO is an adult when the RBO is made — 2 years from the day on which the RBO comes into force; or

(c) if no period is specified in the RBO and the person who is bound by the RBO is a child when the RBO is made — 1 year from the day on which the RBO comes into force.

(4) Subsection (3) applies unless —

(a) the RBO is varied or cancelled under Part 3; or

(b) the RBO ceases to be in force under section 26 or 27.

26. When first hearing RBO ceases to be in force

A first hearing RBO made on an RBO application ceases to be in force when —

(a) an RBO referred to in section 33(3)(a) or 34 made on the RBO application comes into force; or

(b) the RBO application is dismissed; or

(c) the RBO application is discontinued.

27. When related RBO ceases to be in force

(1) This section applies if 2 or more RBOs (each a ***related RBO***) are made on the same RBO application.

(2) A related RBO ceases to be in force at the beginning of the day on which the total cumulative period during which all of the related RBOs have been in force would (but for this section) be longer than —

(a) if the person who is or was bound by the related RBOs was a child when any of the related RBOs was made — 1 year; or

(b) otherwise — 2 years.

28. When RBO lapses

(1) An RBO lapses if it is not served on the person who is bound by it on or before the day that is —

(a) if the person who is bound by the RBO is an adult when the RBO is made — 2 years from the day on which the RBO is made; or

(b) if the person who is bound by the RBO is a child when the RBO is made — 1 year from the day on which the RBO is made; or

(c) if the RBO specifies a period under section 25(1) that is shorter than the period that would otherwise apply under paragraph (a) or (b) — the specified period from the day on which the RBO is made.

(2) Without limiting subsection (1), a first hearing RBO that has not been served on the person who is bound by it lapses when —

(a) the RBO application on which the first hearing RBO was made is dismissed or discontinued; or

(b) an RBO referred to in section 33(3)(a) or 34 made on the RBO application comes into force.

(3) An RBO that has lapsed cannot otherwise come into force under this Division.

Division 4 — Procedure when first hearing RBO served

29. Twenty-one days for person bound by first hearing RBO to object

Within the period of 21 days after the day on which a first hearing RBO is served on the person who is bound by it, the person must —

(a) complete the person's endorsement copy of the first hearing RBO in accordance with the instructions on it; and

(b) indicate on it whether or not the person objects to the first hearing RBO; and

(c) return it to a registrar of the court that made the first hearing RBO.

30. If person bound by first hearing RBO does not object

(1) This section applies if the person who is bound by a first hearing RBO —

(a) returns the person's endorsement copy of the first hearing RBO in accordance with section 29; and

(b) indicates on it that the person does not object to the first hearing RBO.

(2) The registrar must notify the applicant and the Commissioner of Police when the registrar receives the returned endorsement copy of the first hearing RBO.

(3) The RBO application on which the first hearing RBO was made is taken to have been determined on the day on which the registrar receives the returned endorsement copy of the first hearing RBO.

(4) For the purposes of section 78, the decision to make the first hearing RBO is taken to have been made on the day on which

the registrar receives the returned endorsement copy of the first hearing RBO.

Note for this section:

An application to vary or cancel an RBO (including a first hearing RBO) may be made under section 43 at any time while the RBO is in force.

31. If person bound by first hearing RBO objects or does not respond

(1) This section applies if the person who is bound by a first hearing RBO —

(a) returns the person's endorsement copy of the first hearing RBO in accordance with section 29 and indicates on it that the person objects to the first hearing RBO; or

(b) does not return the person's endorsement copy of the first hearing RBO in accordance with section 29.

(2) A registrar of the court that made the first hearing RBO must fix a mention hearing and summons the person who is bound by the first hearing RBO to the hearing.

(3) If subsection (1)(a) applies, the registrar must ensure that the day fixed under subsection (2) for the mention hearing is as soon as practicable after the day on which the registrar receives the returned endorsement copy of the first hearing RBO.

Division 5 — Mention hearings

32. RBO hearing to be fixed

Subject to section 33, at a mention hearing the court must direct a registrar to fix an RBO hearing and summons the respondent to attend the hearing.

33. Attendance at mention hearing

(1) If the applicant for an RBO does not attend a mention hearing, the court must —

(a) if satisfied the applicant was notified of the hearing — dismiss the application; or

(b) otherwise — adjourn the hearing.

(2) If the respondent does not attend a mention hearing and the applicant for the RBO does attend, the court must —

(a) if satisfied the respondent was served with the summons requiring the respondent to attend the hearing — hear the matter in the absence of the respondent; or

(b) otherwise — adjourn the hearing.

(3) If the court hears the matter in the absence of the respondent under subsection (2)(a), the court must —

(a) make an RBO against the respondent under Part 2 Division 2; or

(b) dismiss the application; or

(c) direct a registrar to fix an RBO hearing and summons the respondent to attend the hearing; or

(d) adjourn the mention hearing.

Division 6 — RBO hearings

34. Making RBO at RBO hearing

Subject to section 35, at an RBO hearing the court may make an RBO against the respondent under Part 2 Division 2.

35. Attendance at RBO hearing

(1) If the applicant for an RBO does not attend an RBO hearing, the court must —

(a) if satisfied the applicant was notified of the hearing — dismiss the application; or

(b) otherwise — adjourn the hearing.

(2) If the respondent does not attend an RBO hearing and the applicant for the RBO does attend, the court must —

(a) if satisfied the respondent was served with the summons requiring the respondent to attend the hearing — hear the matter in the absence of the respondent; or

(b) otherwise — adjourn the hearing.

36. Evidence at RBO hearing

If an RBO hearing is heard in the absence of the respondent under section 35(2)(a) or attended by both the applicant for the RBO and the respondent, the court may admit as evidence any record of evidence given (including any affidavit filed) at a prior hearing in relation to the RBO application that is relevant to the RBO application.

Division 7 — Setting aside certain decisions following non-attendance

37. Terms used

In this Division —

application period, in relation to a set aside application, means the period of 21 days after the day on which —

(a) if the set aside application was made under section 38(1) — the person making the application became aware that the RBO application was dismissed; or

(b) if the set aside application was made under section 38(2) — the RBO was served on the person who was the respondent to the RBO application;

decision the subject of the application, in relation to a set aside application, means —

(a) if the set aside application was made under section 38(1) — the decision to dismiss the RBO application under section 33(1)(a) or 35(1)(a); or

(b) if the set aside application was made under section 38(2) — the decision to make an RBO against the person who was the respondent to the RBO application.

38. Who may apply to set aside decision

(1) If a court dismisses an RBO application under section 33(1)(a) or 35(1)(a), the person who made the RBO application may make an application (a ***set aside application***) to set aside the decision.

(2) If a court makes an RBO against a respondent at a mention hearing or an RBO hearing conducted in the absence of the respondent under section 33(2)(a) or 35(2)(a), any of the following may make an application (also a ***set aside application***) to set aside the decision —

(a) if the person who was the respondent to the RBO application is an adult — the person who was the respondent;

(b) if the person who was the respondent is a child — a responsible adult for the child on behalf of the child;

(c) if the person who was the respondent is a person for whom a guardian has been appointed under the *Guardianship and Administration Act 1990* — the guardian on behalf of the person.

39. Set aside application

(1) A set aside application must be made to —

(a) if the person who was the respondent to the RBO application is a child — the Children's Court; or

(b) otherwise — the Magistrates Court.

(2) A set aside application must be made in accordance with the rules of court.

(3) A set aside application must set out —

(a) in all cases — the grounds of the application; and

(b) if the application is not made within the application period — the reasons why the application was not made within the application period.

(4) If a set aside application is made, a registrar must —

(a) fix a hearing; and

(b) summons the person who made the application to attend the hearing.

40. Children's Court must transfer court record

(1) Subsection (2) applies if —

(a) a set aside application is made to the Magistrates Court; and

(b) the Children's Court made the decision the subject of the application.

(2) A registrar of the Children's Court must provide a copy of the court record (as defined in the *Children's Court of Western Australia Act 1988* section 51A(1)) of the proceedings in the Children's Court to the Magistrates Court.

41. Initial hearing of set aside application

(1) A hearing fixed under section 39(4)(a) must be held in the absence of the other party to the application.

(2) At a hearing fixed under section 39(4)(a) the court must —

(a) if satisfied that the person who made the set aside application, or on whose behalf the application is made, may have had reasonable cause not to attend the hearing

at which the decision the subject of the application was made — adjourn the proceedings; or

(b) otherwise — dismiss the set aside application.

(3) Despite subsection (2), if the set aside application was not made within the application period, the court must dismiss the application unless satisfied that the person who made the set aside application, or on whose behalf the application is made, had a reasonable excuse for not making the application within the application period.

(4) If the court adjourns the proceedings under subsection (2)(a), a registrar must fix a hearing and summons the other party to the application to attend the hearing.

42. Hearing of set aside application

(1) At a hearing fixed under section 41(4) the court must —

(a) if satisfied that the person who made the set aside application, or on whose behalf the application is made, had reasonable cause not to attend the hearing at which the decision the subject of the application was made — make an order setting aside the decision the subject of the application; or

(b) otherwise — dismiss the application.

(2) If the court makes an order under subsection (1)(a), a registrar must —

(a) fix —

(i) if the decision the subject of the set aside application was made at a mention hearing — a mention hearing; or

(ii) if the decision the subject of the application was made at an RBO hearing — an RBO hearing;

and

(b) summons the person who was the respondent to the RBO application to attend the hearing; and

(c) if the application was made under section 38(2) — notify the Commissioner of Police.

(3) At a mention hearing fixed under subsection (2)(a)(i) the court must rehear the RBO application under Division 5.

(4) At an RBO hearing fixed under subsection (2)(a)(ii) the court must rehear the RBO application under Division 6.

Part 3 — Varying or cancelling an RBO

43. Who may apply to vary or cancel RBO

An application to vary or cancel an RBO may be made at any time while the RBO is in force by any of the following —

(a) the person who was the applicant for the RBO;

(b) if the person who is bound by the RBO is an adult — the person who is bound by the RBO;

(c) if the person who is bound by the RBO is a child — a responsible adult for the child on behalf of the child;

(d) if the person who is bound by the RBO is a person for whom a guardian has been appointed under the *Guardianship and Administration Act 1990* — the guardian on behalf of the person.

44. Application to vary or cancel RBO

(1) An application to vary or cancel an RBO must be made to —

(a) if the person who is bound by the RBO is a child — the Children's Court; or

(b) otherwise — the Magistrates Court.

(2) The application must be made in accordance with the rules of court.

(3) An application to cancel an RBO made by the person who was the applicant for the RBO may specify that the applicant wishes to have the application heard in the absence of the person who is bound by the RBO.

45. Certain RBOs extended until application is decided

(1) This section applies if —

(a) the person who was the applicant for an RBO that specifies its duration makes an application to vary the RBO by extending its duration; and

(b) the person who is bound by the RBO has been served with a summons under section 47; and

(c) but for this section, the RBO would expire on a day (the ***expiry day***) before the application is decided.

(2) If the person who is bound by the RBO was an adult when the RBO was made, the RBO remains in force from the expiry day until the first of the following occurs —

(a) the RBO is varied under section 50 or the application to vary is otherwise determined;

(b) the period of 2 years from the day on which the RBO came into force ends.

(3) If the person who is bound by the RBO was a child when the RBO was made, the RBO remains in force from the expiry day until the first of the following occurs —

(a) the RBO is varied under section 50 or the application to vary is otherwise determined;

(b) the period of 1 year from the day on which the RBO came into force ends.

(4) This section applies subject to sections 26 and 27.

46. Leave hearing: application made by person bound by RBO

(1) If an application to vary or cancel an RBO is made by or on behalf of the person who is bound by the RBO, a registrar must —

(a) fix a hearing to decide if the person who applied to vary or cancel the RBO should be given leave to continue the application; and

(b) summons that person to attend the hearing.

(2) At the hearing the court must —

(a) if the court is satisfied that there has been a substantial change in the relevant circumstances since the RBO was

made — grant leave for the person to continue the application; or

(b) otherwise — dismiss the application.

(3) Despite subsection (2), if the person who applied to vary or cancel the RBO does not attend the hearing the court must —

(a) if the court is satisfied that the person was served with the summons requiring the person to attend the hearing — dismiss the application; or

(b) otherwise — adjourn the hearing.

47. Registrar must fix hearing: application made by applicant for RBO or person bound by RBO

(1) If an application to vary or cancel an RBO is made by the person who was the applicant for the RBO, and the application does not specify that the applicant wishes to have the application heard in the absence of the person who is bound by the RBO, a registrar must fix a hearing and summons the person who is bound by the RBO to attend the hearing.

(2) If leave is granted under section 46(2)(a), a registrar must fix a hearing and summons the person who was the applicant for the RBO to attend the hearing.

48. Registrar must fix hearing: certain cancellation applications made by applicant for RBO

(1) If an application to cancel an RBO made by the person who was the applicant for the RBO specifies that the applicant wishes to have the application heard in the absence of the person who is bound by the RBO, a registrar —

(a) must fix a hearing; and

(b) may, if the registrar considers it appropriate, summons the person who is bound by the RBO to attend the hearing.

(2) A hearing fixed under subsection (1) may be held in the absence of the person who is bound by the RBO.

49. When court may deal with certain applications to vary or cancel first hearing RBO

(1) This section applies if —

(a) section 31 applies in respect of a first hearing RBO made on an RBO application; and

(b) an application to vary or cancel the first hearing RBO is made before the RBO application is determined.

(2) The court may deal with the application to vary or cancel at a mention hearing or RBO hearing held in proceedings on the RBO application.

(3) If the court deals with the application to vary or cancel under subsection (2) —

(a) sections 44(3) and 46 to 48 do not apply; and

(b) for the purposes of sections 50 and 53, the mention hearing or RBO hearing is taken to also be a hearing fixed under section 47.

(4) This section does not limit the operation of Part 2 Division 5 or 6.

50. Varying or cancelling RBO

(1) At a hearing fixed under section 47 the court may make an order —

(a) dismissing the application to vary or cancel the RBO; or

(b) subject to subsection (5), varying the RBO; or

(c) cancelling the RBO.

(2) At a hearing fixed under section 48(1)(a) the court may make an order cancelling the RBO.

(3) When the court is considering whether to vary or cancel an RBO, sections 14 to 16 apply as if the court were considering whether to make the RBO.

(4) If the court decides to vary an RBO, sections 17, 19(1) and 20(1) apply as if the court were making the RBO.

(5) The court may vary an RBO if the court is satisfied that the terms of the RBO as varied are the least restrictive of the personal rights and liberties of the person who is bound by the RBO as possible that still achieve the objects of this Act.

(6) The variation of an RBO under this section takes effect —

(a) if the RBO as varied will impose restraints that are additional to the restraints currently imposed by the RBO, or more restrictive of the personal rights and liberties of the person who is bound by the RBO than the restraints currently imposed by the RBO — when the order under subsection (1)(b) varying the RBO is served on the person who is bound by the RBO; or

(b) otherwise — at the conclusion of the hearing at which the RBO is varied.

(7) The cancellation of an RBO under this section takes effect at the conclusion of the hearing at which the RBO is cancelled.

51. Duration of RBO: where court varies RBO and specifies period

(1) Subsection (2) applies to a court if the court —

(a) varies an RBO; and

(b) the variation includes specifying in the RBO the period for which the RBO is in force.

(2) The court must ensure that the total period for which the RBO as varied is in force is —

(a) if the person who is bound by the RBO was an adult when the RBO was made — not more than 2 years;

(b) if the person who is bound by the RBO was a child when the RBO was made — not more than 1 year.

52. Attendance at hearing

(1) If the person who applied to vary or cancel an RBO does not attend a hearing fixed under section 47 or 48(1)(a), the court must —

(a) if satisfied the person was notified of the hearing — dismiss the application; or

(b) otherwise — adjourn the hearing.

(2) If a person summonsed under section 47 does not attend a hearing fixed under that section and the person who applied to vary or cancel the RBO does attend, the court must —

(a) if satisfied the summonsed person was served with the summons requiring the person to attend the hearing — hear the matter in the absence of the summonsed person; or

(b) otherwise — adjourn the hearing.

53. Evidence at hearing fixed under s. 47

At a hearing fixed under section 47 the court may admit as evidence any record of evidence given (including any affidavit filed) at any prior hearing in relation to the application to vary or cancel the RBO, or at any hearing in relation to the application for the RBO, that is relevant to the application to vary or cancel.

54. Registrar's duties

(1) If the court makes an order under section 50(1)(b) varying an RBO, a registrar must —

(a) prepare the order in accordance with the rules of court; and

(b) cause the order to be served on the person who is bound by the RBO; and

(c) notify —

(i) each other party to the application to vary or cancel the RBO that was not present at the hearing; and

(ii) the Commissioner of Police.

(2) If the court cancels an RBO, a registrar must notify —

(a) each party to the application to vary or cancel the RBO that was not present at the hearing; and

(b) the Commissioner of Police.

Part 4 — Procedure

Division 1 — Proceedings generally

55. General provisions about RBO proceedings

(1) RBO proceedings are taken to be civil proceedings for all purposes.

(2) The rules of evidence applicable in civil proceedings apply in RBO proceedings.

(3) The rules of evidence applicable only in criminal proceedings do not apply in RBO proceedings.

(4) A question of fact to be decided by a court in RBO proceedings is to be decided on the balance of probabilities.

(5) Except in relation to an offence under this Act, a rule of construction that is applicable only in relation to the criminal law does not apply in the interpretation of this Act.

56. Practice and procedure

Unless otherwise provided by this Act, the practice and procedure to be followed in RBO proceedings are —

(a) in the Magistrates Court — the practice and procedure applying in that court under the *Magistrates Court (Civil Proceedings) Act 2004*; or

(b) in the Children's Court — the practice and procedure applying in the non-criminal jurisdiction of that court under the *Children's Court of Western Australia Act 1988*.

57. Adjournments

(1) In addition to the specific provisions of this Act regarding adjournments, a court may also grant an adjournment —

(a) at an RBO hearing, if the court is satisfied that an injustice would result if an adjournment were not granted; or

(b) at any other hearing, if the court is satisfied that there is good reason to do so.

(2) An adjournment under subsection (1) may be granted when, and for the period of time, the court considers appropriate.

(3) If an adjournment is granted, whether under subsection (1) or under another provision, a registrar must notify each party that —

(a) is permitted to attend the hearing; and

(b) was not present when the adjournment was granted.

Division 2 — Children

58. Responsible adult to attend

(1) In this section —

child-related RBO proceedings —

(a) means proceedings in the Children's Court on —

(i) an RBO application where the respondent is a child; or

(ii) a set aside application where the person who was the respondent to the RBO application is a child; or

(iii) an application to vary or cancel an RBO where the person who is bound by the RBO is a child;

but

(b) does not include proceedings for an offence under this Act.

(2) In child-related RBO proceedings, the *Young Offenders Act 1994* section 45 applies as if —

(a) the child-related RBO proceedings were proceedings for an offence; and

(b) the reference in section 45(5)(a) to "the charge, or each charge, laid alleging the commission of an offence" were a reference to the application in relation to which the child-related RBO proceedings were held.

59. Children's Court must transfer certain matters

(1) This section applies if —

(a) any of the following applications are made to the Children's Court under this Act —

(i) an RBO application where the respondent (the ***relevant person***) is a child at the time the application is made;

(ii) a set aside application where the person (also the ***relevant person***) who was the respondent to the RBO application is a child at the time the set aside application is made;

(iii) an application to vary or cancel an RBO where the person who is bound by the RBO (also the ***relevant person***) is a child at the time the application is made;

and

(b) the Children's Court becomes aware, before the application is determined, that the relevant person has reached 18 years of age.

(2) If this section applies —

(a) the Children's Court must transfer the matter to the Magistrates Court; and

(b) the Children's Court proceedings are not, for that reason, invalidated; and

(c) an order made by the Children's Court in the proceedings before the matter is transferred is as valid and has the same effect as if it had been made by the Magistrates Court to which the matter is transferred; and

(d) the Magistrates Court has jurisdiction to hear and determine the matter.

(3) If the Children's Court transfers a matter to the Magistrates Court under this section, the registrars of each court must give effect to the transfer.

Part 5 — General

Division 1 — Breach of an RBO

60. Breach of RBO

A person who is bound by an RBO commits an offence if the person, without reasonable excuse, breaches the RBO.

Penalty: imprisonment for 3 years and a fine of $36 000.

61. Breach of RBO with intention or knowledge of harm

(1) In this section —

mental harm includes —

(a) psychological harm; and

(b) suicidal thoughts.

(2) A person who is bound by an RBO commits a crime if the person breaches the RBO and the person —

(a) intended their conduct to cause —

(i) physical or mental harm, including self-harm, to a person; or

(ii) apprehension or fear in a person for the person's own safety or the safety of another person;

or

(b) knew, or ought reasonably to have known, that their conduct would be likely to cause —

(i) physical or mental harm, including self-harm, to a person; or

(ii) apprehension or fear in a person for the person's own safety or the safety of another person.

Alternative offence for this subsection: s. 60.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 3 years and a fine of $36 000.

62. Persistent breach of RBO

(1) A person who is bound by an RBO commits a crime if the person persistently breaches —

(a) the RBO; or

(b) the RBO and 1 or more related RBOs.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 3 years and a fine of $36 000.

(2) An RBO is ***related*** to another RBO if each of the RBOs was made on the same RBO application.

(3) To prove an offence against subsection (1) (a ***persistent breach offence***), the prosecution must prove that, over a period not exceeding 28 days, the person who is bound by the RBO —

(a) engaged in conduct (***breach conduct***) that would constitute an offence against section 60 or 61 in relation to the RBO on 3 or more occasions, each of which was on a different day; or

(b) engaged in breach conduct in relation to the RBO on at least 1 occasion, and breach conduct in relation to 1 or more related RBOs, totalling 3 or more instances of breach conduct, each of which was on a different day.

(4) A charge of a persistent breach offence must specify —

(a) the period during which it is alleged the instances of breach conduct occurred; and

(b) particulars of each instance of breach conduct (including, if known, the date on which each instance of breach conduct occurred).

(5) Subsection (4) does not limit the operation of the *Criminal Procedure Act 2004* section 23 or 85.

(6) If a person is found not guilty of a persistent breach offence, the person may nevertheless be found guilty of 1 or more offences against section 60 or 61 if —

(a) the evidence establishes that the offence or offences against section 60 or 61 were committed during the period specified in the charge of the persistent breach offence under subsection (4)(a); and

(b) the charge of the persistent breach offence specifies the particulars of the offence or offences against section 60 or 61.

(7) However —

(a) if a person has been convicted or acquitted of an offence against section 60 or 61, the conduct constituting the offence against section 60 or 61 cannot constitute breach conduct for the purposes of establishing a persistent breach offence in separate or subsequent proceedings; and

(b) if a person has been convicted or acquitted of a persistent breach offence, the person cannot, in separate or subsequent proceedings, be found guilty of an offence against section 60 or 61 constituted by conduct that was the subject of evidence presented to the court for the purposes of proceedings for the persistent breach offence; and

(c) nothing in this section otherwise allows a person to be punished twice for the same conduct.

(8) For the purposes of this section, a person ceases to be regarded as having been convicted of an offence if the conviction is set aside or quashed.

(9) Subsection (6) applies despite *The Criminal Code* section 10A.

(10) A person cannot be found guilty under subsection (6) of an offence against section 60 if the prosecution for the persistent breach offence was commenced after the period within which a prosecution for the offence against section 60 must be commenced.

Division 2 — Service of summons for hearing or relevant order

63. Term used: relevant order

In this Division —

relevant order means —

(a) an RBO; or

(b) an order under section 50(1)(b) varying an RBO.

64. How summons for hearing served

(1) A summons for a hearing must be served —

(a) by personal service at least 7 days before the hearing date; or

(b) by post —

(i) in accordance with subsection (2); and

(ii) at least 14 days before the hearing date.

(2) A summons served by post must be sent —

(a) by prepaid registered post; and

(b) to the person to whom it is directed at the person's last known place of residence or business; and

(c) by a registrar, a person authorised by a registrar or a police officer.

65. How relevant order served

(1) A relevant order must be served by personal service unless substituted service is allowed under section 67 or 68.

(2) If, when a relevant order is made, the person who is bound by the RBO is present in court, the relevant order is taken to have been served personally on the person when it is made.

(3) If a relevant order is taken to have been served on a person under subsection (2), a copy of the relevant order is not required to be served on the person under any rules of court made under section 81(2)(g) but must be —

(a) delivered to the person; and

(b) if the rules of court make provision for delivery under paragraph (a) — delivered in accordance with those rules.

66. Who must effect personal service of relevant order

(1) In this section —

custodial officer has the meaning given in the *Young Offenders Act 1994* section 3(1);

prison officer has the meaning given in the *Prisons Act 1981* section 3(1).

(2) Personal service of a relevant order must be effected by —

(a) a registrar of the court that made the order; or

(b) a person authorised by a registrar of the court that made the order; or

(c) a police officer; or

(d) a custodial officer; or

(e) a prison officer.

(3) If a relevant order is given to a person referred to in subsection (2)(b), (c), (d) or (e) for service and the registrar has given a direction as to the manner of service, the person must take all reasonable steps to serve the document in that manner.

67. Court may order substituted service of relevant order

(1) A court may order substituted service of a relevant order if the court is satisfied that —

(a) reasonable efforts have been made to serve the relevant order by personal service; or

(b) the person to be served is deliberately avoiding being served with the relevant order.

(2) An application for an order authorising substituted service of a relevant order under subsection (1) must —

(a) be made by a police officer; and

(b) specify any previous attempts to serve the relevant order, including any incidents of deliberate avoidance.

(3) If a court makes an order authorising substituted service of a relevant order, the relevant order is served by substituted service if the person serving the relevant order takes the steps the court has directed to bring the relevant order to the attention of the person being served.

68. Senior police officer may approve substituted service of relevant order

(1) A senior police officer may approve substituted service of a relevant order if the senior police officer is satisfied that a police officer has failed to achieve personal service of the relevant order after taking the steps prescribed by the regulations.

(2) A request for an approval authorising substituted service of a relevant order under subsection (1) must be made by a police officer.

(3) An approval under subsection (1) must specify 1 of the ways prescribed by the regulations of bringing a relevant order to the attention of the person being served.

(4) A senior police officer who approves substituted service of a relevant order under subsection (1) must keep a record of the senior police officer's approval.

(5) If a senior police officer approves substituted service of a relevant order under subsection (1), the relevant order is served by substituted service if the person serving the relevant order takes the steps prescribed by the regulations for the way specified in the senior police officer's approval.

(6) Without limiting the ways of bringing a relevant order to the attention of a person being served that may be prescribed under subsection (3), the regulations may prescribe the following ways —

(a) orally;

(b) by post;

(c) by email, text message or other electronic means.

69. Proof of service of summons or relevant order

(1) A person may certify in writing that, on the day and at the time and place stated in the certificate, the person —

(a) personally served on a person a summons or relevant order in accordance with this Division; or

(b) served on a person by post a summons in accordance with this Division; or

(c) effected substituted service of a relevant order under section 67(3) or 68(5).

(2) The certificate must —

(a) be made in accordance with the rules of court; and

(b) state the full name of the person served.

(3) A certificate of service under this section is, in the absence of evidence to the contrary, proof of service of the summons or relevant order on the person stated to have been served.

70. Notification of service of relevant order

(1) As soon as practicable after a relevant order is served on the person who is bound by the RBO, the person who served the relevant order must —

(a) complete the proof of service copy of the relevant order; and

(b) give it to a registrar of the court that made the relevant order.

(2) As soon as practicable after a registrar receives the proof of service copy of a relevant order, the registrar must —

(a) if the relevant order is an RBO — notify the applicant for the RBO that the RBO has been served; or

(b) if the relevant order is an order under section 50(1)(b) varying an RBO — notify the person who was the applicant for the RBO that the order has been served.

(3) Notification under subsection (2) may be given to the applicant for the RBO or the person who was the applicant for the RBO (as the case requires) by —

(a) email sent to an email address provided by the applicant or person to the court for that purpose; or

(b) another electronic means using contact details provided by the applicant or person to the court for that purpose.

71. Notification of oral service of relevant order by police officer

(1) Without limiting section 70(1), if a police officer effects substituted service of a relevant order under section 67(3) or 68(5) orally, the police officer must —

(a) notify a registrar of the court that made the relevant order; and

(b) if the rules of court make provision in relation to notification under paragraph (a) — do so in accordance with those rules.

(2) If a registrar is notified under subsection (1), the registrar must send a copy of the relevant order by ordinary prepaid post to the last known residential address of the person who is bound by the RBO.

72. Copy of summons or relevant order sufficient

It is sufficient to constitute personal service or service by post of a summons or relevant order if the document given or posted to the person being served is a copy of the summons or relevant order instead of the original.

Division 3 — Other matters

73. Criminal and civil liability not affected by RBO

(1) A court may make an RBO against a person even if the person has been charged with, or convicted of, an offence in respect of the same conduct as that out of which the RBO application arose.

(2) A court may vary an RBO even if the person who is bound by the RBO has been charged with, or convicted of, an offence in respect of the same conduct as that out of which the RBO application arose.

(3) The making or varying of an RBO does not, except as provided by this Act, affect the civil or criminal liability of the person who is bound by the RBO in respect of the same conduct as that out of which the RBO application arose.

74. Notification of firearms RBO

(1) In this section —

firearms RBO means —

(a) an RBO that includes a firearms restraint; or

(b) an order under section 50(1)(b) varying an RBO to impose a firearms restraint;

responsible person, in relation to a restrained person who uses or has access to a firearm item in the course of that person's usual occupation, means the person who holds a firearms authorisation (or the equivalent under a law of another State or Territory) for that firearm item, or if there is no such person —

(a) if the restrained person is a police officer or a member of an armed force — the officer in command of that police force or armed force in the State or Territory where the restrained person is based; or

(b) if the restrained person is otherwise employed or engaged by an employing authority, as defined in the *Public Sector Management Act 1994*, (or an equivalent body under a law of another State, a Territory or the Commonwealth corresponding to that Act) — that employing authority (or equivalent body); or

(c) in any other case — the person by whom the restrained person is employed or engaged;

restrained person means the person who is bound by a firearms RBO.

(2) A police officer who serves a firearms RBO personally or effects substituted service of a firearms RBO under section 67(3) or 68(5) orally must —

(a) ask the restrained person —

(i) whether the person uses or has access to any firearm items in the course of the restrained person's usual occupation; and

(ii) if so, the name and business address of the responsible person; and

(iii) whether the person and another person (the ***co-licensee***) hold firearms authorisations in respect of the same firearm item; and

(iv) if so, the name and address of the co-licensee;

and

(b) complete the relevant part of the police copy of the firearms RBO in accordance with the response given by the restrained person to those questions; and

(c) tell the restrained person that the responsible person and the co-licensee, as relevant, will be notified that the firearms RBO has been made.

(3) A restrained person who fails to answer, or gives a false answer to, a question asked under subsection (2)(a) commits an offence.

Penalty for this subsection: imprisonment for 9 months and a fine of $2 000.

(4) On receipt of the police copy of a firearms RBO that indicates that the restrained person uses or has access to a firearm item in the course of the person's usual occupation, or holds a firearms authorisation in respect of a firearm item for which a co-licensee also holds a firearms authorisation, the Commissioner of Police must promptly notify the responsible person or co-licensee, as the case requires —

(a) that an RBO has been made against the person; and

(b) that the RBO prohibits the person from being in possession of a firearm item; and

(c) the duration of the RBO; and

(d) that it is an offence for the responsible person or co-licensee to allow the person to use or have access to a firearm item in contravention of the RBO.

(5) A responsible person notified under subsection (4) who allows the restrained person to use or have access to a firearm item commits an offence.

Penalty for this subsection: a fine of $4 000.

(6) A co-licensee notified under subsection (4) who allows the restrained person to use or have access to a firearm item in

respect of which the restrained person and the co-licensee hold a firearms authorisation commits an offence.

Penalty for this subsection: imprisonment for 12 months and a fine of $4 000.

75. Notification of hearing

(1) Notification under this Act of a hearing must be given —

(a) if it is given personally — at least 7 days before the hearing date; or

(b) otherwise — at least 14 days before the hearing date.

(2) Subsection (1) does not apply to a summons for a hearing.

76. Giving notifications or documents

(1) If notification of a matter is required or permitted to be given under this Act to a person, the notification must be given in writing.

(2) The regulations may make provision for or in relation to the following —

(a) the notification of a matter required or permitted to be given under this Act (including the giving of the notification by electronic means);

(b) the time at which the notification is taken to have been given;

(c) the giving of a document required or permitted to be given under this Act (including the giving of the document by electronic means);

(d) the time at which the document is taken to have been given.

(3) This section applies to a requirement or permission to give a notification or document whether the term “give”, “deliver”, “send” or “serve”, or any other similar term, is used.

(4) This section does not apply to a requirement or permission to serve —

(a) a summons for a hearing; or

(b) a relevant order.

77. Proof of notification or giving of document

(1) A person may certify in writing that, on the day and at the time and place stated in the certificate, the person notified, or gave a document to, a person in accordance with section 76 and regulations made under that section.

(2) The certificate must —

(a) be made in accordance with the rules of court; and

(b) state the full name of the person notified or given the document.

(3) A certificate under this section is, in the absence of evidence to the contrary, proof of the notification or the giving of the document to the person stated in the certificate.

78. Appeals

(1) In this section —

final RBO means —

(a) a first hearing RBO, if the first hearing RBO was made on an RBO application that is taken to have been determined under section 30(3); or

(b) an RBO referred to in section 33(3)(a) or 34.

(2) A person aggrieved by the decision of a court under this Act to do any of the following may appeal against the decision in accordance with this section —

(a) make, vary or cancel a final RBO;

(b) refuse to make, vary or cancel a final RBO;

(c) make any other order in relation to a final RBO.

(3) If the decision was made by the Magistrates Court, the appeal must be made in accordance with the *Magistrates Court (Civil Proceedings) Act 2004* Part 7.

(4) If the decision was made by the Children's Court when constituted so as not to consist of or include a judge, the appeal must be made in accordance with the *Children's Court of Western Australia Act 1988* section 41.

(5) If the decision was made by the Children's Court when constituted so as to consist of or include a judge, the appeal must be made in accordance with the *Children's Court of Western Australia Act 1988* section 42A.

79. Costs

(1) Subject to subsection (2), a court may make such orders as to costs in relation to RBO proceedings as the court considers appropriate.

(2) The court must not order the applicant for an RBO to pay costs to the respondent unless the court considers the RBO application was frivolous or vexatious.

80. Regulations

The Governor may make regulations prescribing all matters that are —

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for giving effect to the purposes of this Act.

81. Rules of court

(1) The Children's Court or the Magistrates Court may make rules of court providing for any matter that is required or permitted by this Act to be dealt with by rules of court.

(2) Without limiting subsection (1), the rules of court may make provision for —

(a) fixing, selecting or arranging a day, time and place for a hearing; or

(b) requiring a person to attend a hearing; or

(c) preparing, or arranging for the preparation of, a summons for a hearing; or

(d) causing a summons for a hearing to be served on a person; or

(e) notifying 1 or more parties of a hearing; or

(f) preparing, or arranging for the preparation of, a relevant order; or

(g) serving a copy of a relevant order on the person who is bound by the RBO; or

(h) delivering a copy of a relevant order to the applicant for the RBO or the person who was the applicant for the RBO (as the case requires); or

(i) delivering a copy of a relevant order to the Commissioner of Police; or

(j) placing a copy of a relevant order on the court's records.

(3) Rules of court made under this section must not be inconsistent with this Act or the regulations.

82. Review of Act

(1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which this section comes into operation.

(2) The review must address, and the report must include, the information referred to in subsection (4) in relation to the following persons —

(a) the persons who are bound by an RBO made during the review period;

(b) the persons convicted of an offence against section 60, 61(2) or 62(1) during the review period.

(3) In subsection (2) —

review period means the period —

(a) beginning on the day on which this section comes into operation; and

(b) ending immediately before the 3rd anniversary of the day on which this section comes into operation.

(4) The information is —

(a) the person's gender; and

(b) whether the person is an Aboriginal person or a Torres Strait Islander; and

(c) whether the application for an RBO against the person was made to the Magistrates Court or the Children's Court; and

(d) in relation to the persons who are bound by an RBO made during the review period — the registry of the court in which the application for an RBO against the person was made; and

(e) in relation to the persons convicted of an offence against section 60, 61(2) or 62(1) during the review period —

(i) the place where the court was sitting when the person was convicted; and

(ii) the sentence imposed on the person.

(5) The Minister must ensure that the information included in the report under subsection (2) is summary or statistical information

that could not reasonably be expected to lead to the identification of a person to whom it relates.

(6) Subsection (2) applies to the extent that a court holds the information referred to in subsection (4).

(7) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

Part 6 — Transitional provision

83. No RBO application for retail violence committed before commencement

An RBO application cannot be made in relation to retail violence committed before the day on which Part 2 comes into operation.

Part 7 — Other Acts amended

Division 1 — *Children's Court of Western Australia Act 1988* amended

84. Act amended

This Division amends the *Children's Court of Western Australia Act 1988*.

85. Section 3 amended

In section 3(1) in the definition of ***child***:

(a) in paragraph (d) delete "20(3)(b);" and insert:

20(3)(b); and

(b) after paragraph (d) insert:

(e) a person dealt with under section 20(4) who has reached 18 years of age;

86. Section 20 amended

After section 20(3) insert:

(4) Subject to this Act and the *Retail Barring Orders Act 2026* section 59, the Court has jurisdiction to hear and determine any application made to the Court under the *Retail Barring Orders Act 2026* with respect to a person who is under 18 years of age at the time the application is made.

Division 2 — *Courts and Tribunals (Electronic Processes Facilitation) Act 2013* amended

87. Act amended

This Division amends the *Courts and Tribunals (Electronic Processes Facilitation) Act 2013*.

88. Section 6 amended

After section 6(1)(n) insert:

(naa) the *Retail Barring Orders Act 2026*;

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
adult	5
affected retail premises	18(1)
application period	37
breach conduct	62(3)
child	5
child-related RBO proceedings	58(1)
co-licensee	74(2)
common area	5
community titles scheme	5
contractor	5
custodial officer	66(1)
decision the subject of the application	37
electronic means	5
eligible person	5, 8(3)
employer	5
expiry day	45(1)
explosive	5
explosives licence	5
explosives restraint	20(1)
final RBO	78(1)
firearm item	5
firearms authorisation	5
firearms RBO	74(1)
firearms restraint	5, 19(1)
first hearing RBO	5
Liquor Control Act order	14(4)
mental harm	61(1)
mention hearing	5
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other retail premises	18(1)
owner	8(4)
persistent breach offence	62(3)
person who is bound	5
premises	5
prison officer	66(1)
RBO	5
RBO application	5, 8(1)
RBO hearing	5
RBO proceedings	5

registrar 5
related ..... 62(2)
related RBO ..... 27(1)
relevant order 5, 63
relevant person ..... 59(1)
respondent 5
responsible adult 5
responsible person ..... 74(1)
restrained person ..... 74(1)
retail barring order 5
retail business 5
retail premises 5
retail shopping centre 5
retail violence ..... 5, 6(1)
retail worker 5
review period ..... 82(3)
senior police officer 5
set aside application ..... 5, 38(1) and (2)
specified ..... 17(1)
stalking 5
strata titles scheme 5
union 5

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