

Economic abuse and the law

The status quo

Economic abuse is defined in domestic and family violence legislation in every Australian state and territory except New South Wales.

This means that in most places in Australia, economic abuse is recognised as a series of behaviours which might be part of a broader pattern of domestic or family violence (DFV), alongside physical, sexual, psychological or emotional abuse.

However, being defined in legislation does not make economic abuse a criminal offence in its own right. Nor does it mean this form of abuse is well recognised by police, lawyers, courts or society in general. Only Tasmania has criminalised economic abuse, although it is rarely prosecuted.

Some tactics of economic abuse such as fraud, theft, and slavery are against the law as stand-alone offences.

Domestic violence orders and economic abuse

Each state and territory in Australia has a form of domestic violence order such as Apprehended Domestic Violence Orders (ADVO), Intervention Orders, Family Violence Orders and Restraining Orders.

These orders are designed to protect victim-survivors and their property. Often there is flexibility to include specific conditions in these orders, although exactly what conditions can be included in the orders, differs in every state and territory.

Domestic violence orders are rarely used to protect money in bank accounts or other assets, but you may be able to request this if this will support your safety and wellbeing.

Redress

There are few forms of redress for victim-survivors of economic abuse in the context of DFV.

- **Victim compensation:** State and Territory Governments in Australia each have an agency to support victims of crime with payments and access to counselling support. You can find the agency in your state or territory by searching the 'Victim support' category of the CWES Directory. This support is only available where the crime has been reported to Police and in some states, only when the perpetrator is convicted.
- **Financial institution consideration:** Banks and other financial institutions are increasingly aware of domestic and family violence (DFV) and economic abuse. Some of the larger institutions have customer service teams that have had specialist training in DFV. In some cases, and with sufficient evidence, these teams will recommend an economic abuse debt be waived. Some banks will also provide financial support to help victim-survivors get back on their feet.
- **Lawsuit:** Victim-survivors can sue their partner for damages as a result of the domestic violence they have experienced. This is rarely done in Australia and most common where physical injuries have been recorded and the perpetrator convicted. One major hurdle to a lawsuit is that victim-survivors of economic abuse often don't have money to hire a lawyer. It is also unlikely to be worth suing if the perpetrator doesn't have much money.

The Family Court can also make orders about the division of property between separating partners, taking into account family violence and economic abuse.

** To find legal advice as it applies where you are, visit the [CWES Directory](#) and select the 'Legal' category.*

Economic abuse and the law

What the legislation says

The following extracts from Domestic and Family Violence legislation in different jurisdictions of Australia focus on elements of definitions that refer to economic abuse or behaviours that describe economic abuse within the definition of family violence or the criminal code.

Commonwealth Government Law

Family Law Act 1975 (Cth) s 4AB

4AB Definition of *family violence* etc.

- (1) For the purposes of this Act, *family violence* means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the *family member*), or causes the family member to be fearful.
- (2) Examples of behaviour that may constitute family violence include (but are not limited to):
 - (g) unreasonably denying the family member the financial autonomy that he or she would otherwise have had; or
 - (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or his or her child, at a time when the family member is entirely or predominantly dependent on the person for financial support.

Family Law Act 1975 (Cth) s 4AB

Australian Capital Territory (ACT) Law

Family Violence Act 2016 (ACT) s 8

(3) In this section:

"economic abuse", of a family member, means behaviour by a person that is coercive, deceptive or that unreasonably controls the family member without the family member's consent including by the person's exploitation of power imbalances between the person and the family member—

- (a) in a way that takes away the financial independence or control the family member would have but for the behaviour; or

Economic abuse and the law

(b) if the family member is wholly or predominantly dependent on the person for financial support to meet the living expenses of the family member or the family member's child—by withholding the financial support.

Examples:

- 1 stopping the family member from having access to money to meet normal living expenses
- 2 requiring the family member to transfer or hand over control of assets or income
- 3 stopping the family member from trying to get employment
- 4 forcing the family member to sign a legal document such as a power of attorney, loan, guarantee
- 5 forcing the family member to claim social security payments.

New South Wales (NSW) Law

Crimes (Domestic and Personal Violence) Act 2007 (NSW) s 4

Meaning of "personal violence offence"

In this Act, "personal violence offence" means —

(a) an offence under, or mentioned in, section 19A, 24, 25, 26, 27, 28, 29, 30, 31, 33, 33A, 35, 35A, 37, 38, 39, 41, 43, 43A, 44, 45, 45A, 46, 47, 48, 49, 58, 59, 61, 61B, 61C, 61D, 61E, 61I, 61J, 61JA, 61K, 61L, 61M, 61N, 61O, 65A, 66A, 66B, 66C, 66D, 66EA, 73, 78A, 80A, 80D, 86, 87, 91P, 91Q, 91R, 93G, 93GA, 110, 195, 196, 198, 199, 200, 562I (as in force before its substitution by the *Crimes Amendment (Apprehended Violence) Act 2006*) or 562ZG of the *Crimes Act 1900*, or

(b) an offence under section 13 or 14 of this Act, or

(b1) an offence under section 109, 111, 112, 113, 114, 115 or 308C of the *Crimes Act 1900*, but only if the serious indictable offence or indictable offence referred to in those sections is an offence referred to in paragraph (a) or (b), or

(c) an offence of attempting to commit an offence referred to in paragraph (a), (b) or (b1).

Crimes Act 1900 No 40 (NSW)

PART 3 – OFFENCES AGAINST THE PERSON

Economic abuse and the law

DIVISION 6 - ACTS CAUSING DANGER TO LIFE OR BODILY HARM

44. Failure of persons to provide necessities of life

PART 4AD – CRIMINAL DESTRUCTION AND DAMAGE

DIVISION 2 - CRIMES AGAINST PROPERTY GENERALLY

195. Destroying or damaging property

199. Threatening to destroy or damage property

200. Possession etc of explosive or other article with intent to destroy or damage property

PART 6 - COMPUTER OFFENCES

308C. Unauthorised access, modification or impairment with intent to commit serious indictable offence.

Northern Territory (NT) Law

Domestic and Family Violence Act 2017 (NT) s 5

Domestic violence is any of the following conduct committed by a person against someone with whom the person is in a domestic relationship:

(a) conduct causing harm;

Example of harm for paragraph (a)

Sexual or other assault.

(b) damaging property, including the injury or death of an animal;

(c) intimidation;

(d) stalking;

(e) economic abuse;

(f) attempting or threatening to commit conduct mentioned in paragraphs (a) to (e).

Economic abuse and the law

Domestic and Family Violence Act 2017 (NT) s 8

Economic abuse

"Economic abuse", of a person, includes any of the following conduct (or any combination of them):

- (a) coercing the person to relinquish control over assets or income;

Example of coercion for paragraph (a)

Using stand-over tactics to obtain the person's credit card.

- (b) unreasonably disposing of property (whether owned by the person or owned jointly with the person or someone else) without consent;
- (c) unreasonably preventing the person from taking part in decisions over household expenditure or the disposition of joint property;
- (d) withholding money reasonably necessary for the maintenance of the person or a child of the person.

Queensland (Qld) Law

Domestic and Family Violence Protection Act 2012 (Qld) s 12

Meaning of economic abuse

Economic abuse means behaviour by a person (the **first person**) that is coercive, deceptive or unreasonably controls another person (the **second person**), without the second person's consent—

(a) in a way that denies the second person the economic or financial autonomy the second person would have had but for that behaviour; or

(b) by withholding or threatening to withhold the financial support necessary for meeting the reasonable living expenses of the second person or a child, if the second person or the child is entirely or predominantly dependent on the first person for financial support to meet those living expenses.

Examples—

- coercing a person to relinquish control over assets and income
- removing or keeping a person's property without the person's consent, or threatening to do so

Economic abuse and the law

- disposing of property owned by a person, or owned jointly with a person, against the person's wishes and without lawful excuse
- without lawful excuse, preventing a person from having access to joint financial assets for the purposes of meeting normal household expenses
- preventing a person from seeking or keeping employment
- coercing a person to claim social security payments
- coercing a person to sign a power of attorney that would enable the person's finances to be managed by another person
- coercing a person to sign a contract for the purchase of goods or services
- coercing a person to sign a contract for the provision of finance, a loan or credit
- coercing a person to sign a contract of guarantee
- coercing a person to sign any legal document for the establishment or operation of a business.

South Australia (SA) Law

Intervention Orders (Prevention of Abuse) Act 2009 (SA) s 8

8 Meaning of abuse—domestic and non-domestic

(5) Unreasonable and non-consensual denial of financial, social or personal autonomy—examples

Without limiting subsection (2)(c), an act of abuse against a person resulting in an unreasonable and non-consensual denial of financial, social or personal autonomy may be comprised of any of the following:

(a) denying the person the financial autonomy that the person would have had but for the act of abuse;

(b) withholding the financial support necessary for meeting the reasonable living expenses of the person (or any other person living with, or dependent on, the person) in circumstances in which the person is dependent on the financial support to meet those living expenses;

(c) without lawful excuse, preventing the person from having access to joint financial assets for the purposes of meeting normal household expenses;

Economic abuse and the law

(d) preventing the person from seeking or keeping employment;

(e) causing the person through coercion or deception to—

(i) relinquish control over assets or income; or

(ii) claim social security payments; or

(iii) sign a power of attorney enabling the person's finances to be managed by another person; or

(iv) sign a contract for the purchase of goods or services; or

(v) sign a contract for the provision of finance; or

(vi) sign a contract of guarantee; or

(vii) sign any legal document for the establishment or operation of a business;

(f) without permission, removing or keeping property that is in the ownership or possession of the person or used or otherwise enjoyed by the person;

(g) disposing of property owned by the person, or owned jointly with the person, against the person's wishes and without lawful excuse;

(h) preventing the person from making or keeping connections with the person's family, friends or cultural group, from participating in cultural or spiritual ceremonies or practices, or from expressing the person's cultural identity;

(i) exercising an unreasonable level of control and domination over the daily life of the person.

(6) If a defendant commits an act of abuse against a person, or threatens to do so, in order to cause emotional or psychological harm to another person or to deny another person financial, social or personal autonomy, the defendant commits an act of abuse against that other person.

Economic abuse and the law

Tasmania (Tas) Law

Family Violence Act 2004 (Tas) s 7

7. Family violence

In this Act –

family violence means –

(a) any of the following types of conduct committed by a person, directly or indirectly, against that person's spouse or partner:

- (i) assault, including sexual assault;
- (ii) threats, coercion, intimidation or verbal abuse;
- (iii) abduction;
- (iv) stalking and bullying within the meaning of section 192 of the Criminal Code ;
- (v) attempting or threatening to commit conduct referred to in subparagraph (i) , (ii) , (iii) or (iv) ; or

(b) any of the following:

- (i) economic abuse;
- (ii) emotional abuse or intimidation;
- (iii) contravening an external family violence order, an interim FVO, an FVO or a PFVO; or

(c) any damage caused by a person, directly or indirectly, to any property –

- (i) jointly owned by that person and his or her spouse or partner; or
- (ii) owned by that person's spouse or partner; or
- (iii) owned by an affected child.

Economic abuse and the law

Family Violence Act 2004 (Tas) s 8

Economic abuse

A person must not, with intent to unreasonably control or intimidate his or her spouse or partner or cause his or her spouse or partner mental harm, apprehension or fear, pursue a course of conduct made up of one or more of the following actions:

(a) coercing his or her spouse or partner to relinquish control over assets or income;

(b) disposing of property owned –

(i) jointly by the person and his or her spouse or partner; or

(ii) by his or her spouse or partner; or

(iii) by an affected child –

without the consent of the spouse or partner or affected child;

(c) preventing his or her spouse or partner from participating in decisions over household expenditure or the disposition of joint property;

(d) preventing his or her spouse or partner from accessing joint financial assets for the purposes of meeting normal household expenses;

(e) withholding, or threatening to withhold, the financial support reasonably necessary for the maintenance of his or her spouse or partner or an affected child.

Victoria (Vic) Law

Family Violence Protection Act 2008 (Vic) s 6

Meaning of economic abuse

For the purposes of this Act, economic abuse is behaviour by a person (the first person) that is coercive, deceptive or unreasonably controls another person (the second person), without the second person's consent—

(a) in a way that denies the second person the economic or financial autonomy the second person would have had but for that behaviour; or

Economic abuse and the law

(b) by withholding or threatening to withhold the financial support necessary for meeting the reasonable living expenses of the second person or the second person's child, if the second person is entirely or predominantly dependent on the first person for financial support to meet those living expenses.

Examples—

- coercing a person to relinquish control over assets and income;
- removing or keeping a family member's property without permission, or threatening to do so;
- disposing of property owned by a person, or owned jointly with a person, against the person's wishes and without lawful excuse;
- without lawful excuse, preventing a person from having access to joint financial assets for the purposes of meeting normal household expenses;
- preventing a person from seeking or keeping employment;
- coercing a person to claim social security payments;
- coercing a person to sign a power of attorney that would enable the person's finances to be managed by another person;
- coercing a person to sign a contract for the purchase of goods or services;
- coercing a person to sign a contract for the provision of finance, a loan or credit;
- coercing a person to sign a contract of guarantee;
- coercing a person to sign any legal document for the establishment or operation of a business.

Western Australia (WA) Law

Restraining Orders Act 1997 (WA)

5A. Term used: family violence

(1) A reference in this Act to ***family violence*** is a reference to —

- (a) violence, or a threat of violence, by a person towards a family member of the person; or
- (b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

Economic abuse and the law

- (2) Examples of behaviour that may constitute family violence include (but are not limited to) the following —
- ...
 - (e) damaging or destroying property of the family member;
 - ...
 - (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had;
 - (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support.

ENDS