

# CHAPTER 84 DOMESTIC VIOLENCE ACT

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• Act • Subsidiary Legislation •

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## ACT

Act No. 19 of 2010

### Amended by

SRO 15 of 2011

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## CHAPTER 84 DOMESTIC VIOLENCE ACT

**An Act to provide greater protection for victims of domestic violence, and to make provision for the granting of protection orders, and for matters incidental thereto and connected therewith.**

[Act No. 19 of 2010 amended by SRO 15 of 2011.]

[16th May, 2011.]

## PART I

### *Preliminary*

#### **1. Short title and commencement**

(1) This Act may be cited as the Domestic Violence Act.

(2) This Act shall come into operation on a day to be fixed by the Minister by Order published in the *Gazette*.

#### **2. Interpretation**

In this Act, unless the context otherwise requires—

“applicant” means a person who applies or on whose behalf an application is made, for an order pursuant to section 5;

“approved social worker” means a person experienced and qualified in social work, and approved by the Minister, in writing;

“attorney-at-law” means an attorney-at-law admitted to practise before the Eastern Caribbean Supreme Court in Grenada;

“child” means a person under the age of eighteen years who—

- (a) normally resides with the applicant, whether or not the child is a child of the applicant and the respondent, or either of them;

- (b) is an adopted child, a stepchild, a child who is treated as a child of the family;
- (c) is related by consanguinity or affinity, to either the applicant or the respondent;
- (d) is in the care and protection of the applicant or the respondent;
- (e) is a person of whom either the applicant or the respondent is a guardian; or
- (f) is, or was, a member of a shared household; and

is not a person who is, or was married;

“Court” means the Magistrate Court;

“cohabitant” means a person who is living, or has lived, with a person of the opposite sex, as a husband or wife, although not legally married to that person;

“dependant” means a person of or over the age of eighteen years, who by reason of physical or mental disability, age or infirmity, is reliant on either the applicant or the respondent, for his or her welfare;

“Director” means the Director of Social Services;

“domestic relationship” means a relationship between an applicant and a respondent in any of the following ways—

- (a) they are or were married to each other, including marriage according to any law, custom or religion;
- (b) they are cohabitants or were cohabitants;
- (c) they are the parents of a child, or are persons who have, or had parental responsibility for the child, whether or not at the same time;
- (d) they are family members related by consanguinity, affinity or adoption;
- (e) they would be family members related by affinity, if the persons referred to in paragraph (b) were, or were able to be married to each other;
- (f) they are or were in an engagement, dating or visiting relationship which includes, but is not limited to an actual or perceived romantic, intimate or sexual relationship of any duration; or
- (g) they share or shared the same household or residence;

“domestic violence” means any controlling or abusive behaviour that harms the health, safety or well-being of a person or any child, and includes but is not limited to the following—

- (a) physical abuse or threats of physical abuse;
- (b) sexual abuse or threats of sexual abuse;
- (c) emotional, verbal or psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) stalking;
- (h) damage to or destruction of property; or
- (i) entry into the applicant’s residence without consent, where the parties do not share the same residence;

“economic abuse” means the avoidance of financial obligations owed to the applicant and child, or a dependant of the respondent, including mortgage or rental obligations;

“emergency monetary relief” means compensation for monetary losses suffered by an applicant and any child, at the time of the issue of an interim protection order, as a result of the domestic violence, including—

- (a) loss of earnings;
- (b) medical and dental expenses;
- (c) moving, relocation and accommodation expenses; or
- (d) household necessities and other interim expenses;

“emotional, verbal and psychological abuse” means degrading or humiliating conduct by the respondent to the applicant, including—

- (a) repeated insults, ridicule or name calling;
- (b) repeated threats to cause emotional pain; or
- (c) the repeated exhibition of behaviour, which constitutes serious invasion of the applicant’s privacy, liberty, integrity or security;

“firearm” shall have the meaning assigned to it under the Firearms Act, Chapter 105 of the 1990 Revised Laws of Grenada;

“harassment” means engaging in a pattern of conduct that induces the fear of harm, including—

- (a) watching or loitering outside of, or near the building or place where the applicant resides, works or carries on business, studies or happens to be;
- (b) repeatedly making telephone calls, or inducing another person to make telephone calls to the applicant, whether or not conversation ensues; or
- (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the applicant;

“interim protection order” means an order made pursuant to section 6;

“intimidation” means uttering, conveying or causing any person to receive a threat which induces fear;

“Judicial Officer” means a Judge or a Magistrate;

“member of the household” means a person who normally resides in the same dwelling house as the applicant or the respondent, and is related to the applicant or respondent by blood, marriage or adoption;

“Minister” means the Minister responsible for Social Services;

“Ministry” means the Ministry responsible for Social Services;

“order” includes an interim protection issued under section 6, and a final protection order issued under section 13;

“police officer” has the meaning assigned to it under the Police Act, Chapter 244 of the 1990 Revised Laws of Grenada;

“physical abuse” means any act of assault;

“prescribed” means prescribed by the Regulations made pursuant to this Act;

“probation officer” means an officer appointed as such by the Probation Act, Chapter 256 of the 1990 Revised Laws of Grenada;

“protection order” means an interim order issued under section 6 and a final protection order issued under section 12;

“Registrar” means the Registrar of the High Court;

“respondent” means a person who is, or has been in a domestic relationship with the applicant, and against whom the applicant has applied for an order under this Act;

“sexual abuse” means any sexual conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of a person;

“shared household” means a household where the applicant and the respondent live, or lived together, in a domestic relationship;

“spouse” includes a former spouse, a cohabitant or a former cohabitant;

“stalking” includes repeatedly following, pursuing or accosting the applicant;

“victim” means any person who alleges to have been subjected to an act of domestic violence;

“visiting relationship” means a non co-habitational relationship, which is otherwise similar to the relationship between husband and wife.

### **3. Duty to inform victim and applicant of rights**

(1) A police officer, at the scene of an incident of domestic violence, or when the incident of domestic violence is reported shall—

- (a) inform the victim of his or her rights in the form set out in the First Schedule; and
- (b) provide the victim with a printed copy of the information relating to the right of the victim, pursuant to paragraph (a).

(2) Upon the report of a breach of a protection order to a police officer, by a person or a victim, the police officer shall inform the person, or the victim, of the right to lodge a concurrent complaint against the respondent, if a criminal offence appears to have been committed against the person, the victim or a child.

(3) The Director may inform any person, or a victim, of the relief available pursuant to this Act.

### **4. Arrest by police officer without warrant**

Subject to section 21, a police officer may arrest any person at the scene of an incident of domestic violence, without a warrant, whom he or she reasonably suspects of having committed an act of domestic violence.

## **PART II**

### *Protection Orders*

### **5. Person entitled to apply for a protection order**

(1) A person referred to in subsection (2), may apply to the Court, in the form set out as Form I in the Second Schedule, for a protection order, on the grounds that the respondent engaged in domestic violence.

(2) An application for a protection order referred to in subsection (1), may be made by—

- (a) the spouse of the respondent;
- (b) a member of a shared household, either on his or her own behalf, or on behalf of any other member of the shared household;
- (c) a child;

- (d) a dependant;
- (e) a parent or sibling, by consanguinity or affinity of either the spouse or respondent, not being a member of the shared household;
- (f) a person who has a child in common with the respondent; and
- (g) a person who was engaged, dating or has been in a visiting relationship with a person of the opposite sex, which includes, but is not limited, to an actual or perceived romantic, intimate or sexual relationship of any duration.

(3) An application made pursuant to subsection (1), may be brought on behalf of the applicant by any other person, who has a material interest in the well being of the applicant, including a police officer, the Director, a probation officer or an approved social worker, except that the application shall be brought with the consent of the applicant, but such consent shall be dispensed within circumstances where the applicant is—

- (a) a child;
- (b) a dependant;
- (c) physically or mentally incapacitated by unsoundness of mind or a disability;
- (d) unconscious;
- (e) under the influence of intoxicating liquor or is misusing drugs; or
- (f) a person whom the Court is satisfied, is unable to provide the required consent.

(4) Pursuant to subsection (3)(a), a child or dependant may apply for a protection order through—

- (a) a person with whom the child or dependant ordinarily or periodically resides, or re-sided with, or is reliant upon for his or her welfare, or any adult member of his or her household;
- (b) a parent or guardian, or a person who is in *loco parentis* to the child; or
- (c) the Director, or other person who has parental responsibility for the child.

(5) The application referred to pursuant to subsection (1) may be brought outside the ordinary hours of the Court, or on a day which is not an ordinary day for the sitting of the Court.

(6) The application for an order under this Act shall be supported by evidence on affidavit, unless the Court otherwise orders, and an affidavit shall include—

- (a) the facts on which the application is based;
- (b) the nature of the order applied for; and
- (c) the name of the police station at which the applicant is likely to report any breach of the order.

(7) The application made pursuant to this Act, may be accompanied by supporting affidavit of any person who has knowledge of the matter concerned.

(8) The applicant may request, that his or her physical address be omitted from the protection order.

(9) The application and affidavits shall be lodged with the Registrar who shall forthwith submit the application and the affidavits for consideration of the Court.

(10) In considering an application made pursuant to subsection (1), the Court—

- (a) may require further oral evidence, or evidence by affidavit; and
- (b) shall record any oral evidence referred to in paragraph (a).

## **6. Power of Court to issue interim protection order**

(1) If the Court is satisfied that the respondent is committing, or has committed, or is likely to engage in conduct that would constitute an act of domestic violence, the Court shall issue an interim protection order against the respondent, in the form set out as Form II in the Second Schedule.

(2) The Court may issue an interim protection order, pending the hearing and determination of the proceedings for a protection order, if it appears necessary or appropriate to do so, in order to ensure the safety and protection of the applicant.

(3) In exercising its powers pursuant to this section, the Court shall not refuse to issue an interim protection order, by reason of the fact that the respondent has not been given notice of the proceedings.

(4) An interim protection order issued pursuant to this section, shall be served on the respondent, and shall call upon the respondent to show cause, on the return date specified in the interim protection order as to why the interim protection order should not be confirmed.

(5) The return date referred to in subsection (4), shall not be less than ten days after the date of the order.

(6) An interim protection order may be made for such period of time as the Court considers necessary, but shall not exceed twenty-eight days.

(7) An interim protection order shall have no effect, until it has been served on the respondent in the manner provided for in section 10(1).

## **7. Terms of Protection Order**

(1) A protection order issued by the Court pursuant to this Act may prohibit the respondent from—

- (a) committing any act of domestic violence;
- (b) enlisting the help of any person to commit any act of domestic violence;
- (c) entering the shared household, except that the Court shall only impose this prohibition if it appears to be in the interests of the applicant or any child or dependant;
- (d) entering a specified part of the shared household;
- (e) entering the residence of the applicant;
- (f) entering the place of employment or education of the applicant;
- (g) preventing the applicant, any child or dependant, who ordinarily resides, or has resided in the shared household, from entering or remaining in the shared household, or a specified part of the shared household;
- (h) taking possession of, damaging, converting or otherwise dealing with property that the applicant may have an interest in, or is reasonably used by the applicant as the case may be;
- (i) approaching the applicant within a specified distance; or
- (j) committing any other act as specified in the order.

(2) In addition to the prohibitions referred to in subsection (1), the Court may direct that—

- (a) any or all of the conditions of an order be applied for the benefit of a child or dependant;
- (b) the respondent—

- (i) return to the applicant, specified property that is in his or her possession or under his or her control,
- (ii) pay emergency monetary relief to the applicant,
- (iii) pay interim monetary relief to the applicant for the benefit of a child or dependant, where there is no existing order relating to maintenance, until such time as an obligation for support is determined, pursuant to any other law'
- (iv) immediately vacate any shared household for a specified period, whether or not the shared household is owned or leased by the respondent and the applicant, or solely owned or leased by the respondent or the applicant,
- (v) make, or continue to make payments, in respect of rent or mortgage payment, for premises occupied by the applicant, having regard to the financial needs and resources of the applicant and the dependant, or
- (vi) the applicant, or both, receive professional counselling, psycho-educational programming or therapy from any person or agency, approved by the Ministry.

(3) The Court may impose any additional conditions which it considers reasonably necessary to provide and protect the safety of the applicant, any child or dependant, including but not limited to, an order, that a police officer shall accompany the applicant to a specified place to supervise the collection of personal property.

(4) The Court may direct that any or all of the prohibitions or conditions contained in an order, apply for the benefit of a child or dependant.

(5) The Court may—

- (a) refuse the respondent contact with any child, if it is shown that such contact is not in the best interests of the child; or
- (b) order structured contact with any such child.

(6) The Court shall not refuse to issue an order under this Act, on the basis that—

- (a) a single act has been committed, or a single threat has been made by the respondent; or
- (b) the acts or threats when viewed in isolation, appear to be minor or trivial.

(7) Where pursuant to subsection (2)(b)(vi), the Court makes an order which includes counselling or therapy, the order shall specify—

- (a) that the Court receive written notification from the counsellor or therapist, of sessions missed by the applicant, the respondent, or both, as the case may be, without reasonable excuse; and
- (b) the date by which the counsellor or therapist shall submit a report to the Court, in respect of the counselling or therapy.

(8) Where the Court makes an order, which includes a direction that the respondent—

- (a) vacate any shared household; or
- (b) return to the applicant, specified property that is in his or her possession or control,

the Court may, in the same order, if it considers necessary, direct a police officer to remove the respondent, either immediately or within a specified time, from the shared household, or to accompany the applicant, as the case may be, either immediately or within a specified time, to specified premises, in order to supervise the removal of property belonging to the applicant, and to ensure the protection of the applicant.



(9) A protection order may be for such period as the Court considers necessary, but shall not exceed three years.

(10) Where an order contains any prohibitions or directions, the Court shall specify different periods, none of which shall exceed three years, as the period for which each prohibition or direction shall remain in force.

## **8. Matters to be considered by Court**

In determining whether or not to impose one or more of the prohibitions, or issue a direction specified in section 7, the Court shall have regard to the following—

- (a) the nature, history, or pattern of the domestic violence that has occurred, and whether a previous interim protection order, or a final protection order has been issued;
- (b) the need to protect the applicant, and any other person for whose benefit the order has been granted, from further domestic violence;
- (c) the welfare of any child;
- (d) the accommodation needs of the applicant and any other person;
- (e) the hardship that may be caused to the applicant, as a result of making the order;
- (f) the income, assets and financial obligations of the respondent, the applicant, and any other person affected by the order;
- (g) the need to preserve and protect the institution of marriage and other relationships, whilst affording protection and assistance to the family as a unit; and
- (h) any other matter, that in the circumstances of the case, which the Court considers relevant.

## **9. Seizure of firearm and dangerous weapons**

(1) The Court may make an order, directing a police officer to seize any firearm or dangerous weapon in the possession of the respondent, if the affidavit made pursuant to section 5(6), contains information to the effect that—

- (a) the respondent has threatened or expressed the intention to kill or injure, any person in a domestic relationship, including himself or herself, whether or not by means of the firearm or dangerous weapon; or
- (b) possession of the firearm or dangerous weapon is not in the best interests of the respondent, or any other person, as a result of the respondent's—
  - (i) state of mind or mental condition,
  - (ii) inclination to violence, whether a firearm or a dangerous weapon was used in the violence or not, or

the use of, or dependence on, intoxicating liquor or drugs.

(2) The Court shall direct the Registrar to refer a copy of the affidavit, made pursuant to section 5 (3), to the Chief of Police, for consideration in relation to the Firearms Act, if the Court had ordered the seizure of any firearm pursuant to this Act.

## **10. Service of notice of proceedings**

(1) Upon an application for a protection order pursuant to section 5(1), and the granting of an interim protection order by the Court, a copy of the application and the interim protection order, together with the notice of the date on which, and the time at

which the respondent is to appear before the Court, to show cause as to why the interim protection order should not be confirmed, shall be served on the respondent.

(2) A notice of the proceedings pursuant to subsection (1), shall be issued in the form set out as Form III in the Second Schedule.

(3) Where an application is filed in respect of a child or dependant, a copy of the application, together with notice of the date on which, and the time and place at which, the application is to be heard, shall, as soon as practicable, be served on the parent or guardian of the child or dependant, or other person with whom the child or dependant ordinarily resides, or resides with on a regular basis.

(4) A notice of proceedings which is issued and served under this section, shall be deemed to be a summons that is duly issued and served, pursuant to the Rules of the Court made under section 32, and shall compel the respondent to appear in Court to answer to the application.

(5) A notice of proceedings issued under this Act may be served on the respondent or his or her agent, and the Court shall receive proof of service by affidavit, in the form set out as Form IV in the Second Schedule.

(6) Where the hearing of an application is adjourned, because the application and notice of the proceedings have not been served on the respondent, the time and place fixed by the Court for the adjourned hearing, shall be the date, time and place stated in the new notice of proceedings.

## **11. Service other than personal service**

(1) Where the Court has not served notice of proceedings pursuant to section 10, or an interim protection order on the respondent personally, it may make an order for substituted service of the notice of the proceedings, or an interim protection order, as the case may be.

(2) For the purpose of subsection (1), “substituted service” means service—

- (a) by registered post, to the last known address of the respondent;
- (b) by leaving the document at the last known address of the respondent, or his or her closest relative;
- (c) at the workplace of the respondent;
- (d) by advertisement in a newspaper of general circulation, which service is deemed to have been effected at midnight on the date of the later advertisement, the cost to be borne by the applicant; or
- (e) provided in such other manner as the Court may direct.

## **12. Filing of affidavits**

(1) The respondent shall, before the return date, file with the Registrar, supporting affidavits, showing cause as to why the interim protection order must not be confirmed.

(2) A copy of the affidavits of the respondent shall forthwith be served on the applicant.

(3) The applicant, upon receipt of the affidavits may, before the return date, file a replying affidavit, together with any supporting affidavits, with the Registrar, in which shall be stated the reasons why the interim protection order must be confirmed.

(4) A copy of the replying affidavit of the applicant, shall forthwith be served on the respondent.

(5) On the return date, the Registrar shall submit to the Court—

- (a) application for the protection order;

- (b) the interim protection order granted;
- (c) any supporting affidavits made by the respondent; and
- (d) any replying affidavits made by the applicant.

### **13. Power to issue final protection order**

(1) Where notice is served on the respondent in accordance with section 10 or 11, and the respondent fails to appear in person at the time fixed for the hearing, the Court may—

- (a) proceed to hear and determine the matter in the absence of the respondent, and issue a final protection order in the form set out as Form V in the Second Schedule; or
- (b) if the Court is satisfied, having regard to the materials before it, that it is appropriate to do so, adjourn the matter, and issue a warrant for the respondent to be apprehended and brought before the Court.

(2) If the applicant, or the person on whose behalf the application is made, does not appear either in person or represented by an attorney-at-law, on the return date, as stated pursuant to section 6(4) and (5), and the respondent appears in Court, the Court may—

- (a) dismiss the application;
- (b) having received a reasonable excuse for the non-appearance of the applicant or other person, adjourn the hearing on such terms as it considers just; or
- (c) where it is satisfied, having regard to the submissions before it, that it is appropriate for evidence to be given by affidavit pursuant to this section, it may so direct, but the Court shall, on the application of any other party, order the attendance for cross examination of the person making such affidavit.

(3) If the respondent appears on the return date in order to show cause as to why the interim protection order should not be issued or confirmed, and the applicant or the person on whose behalf the application is made, also appears, the Court shall proceed—

- (a) to hear the matter, and consider any evidence previously received under section 5(6) and (7); and
- (b) to consider such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

(4) At the hearing of the matter, the Court may—

- (a) decide the matter on the papers, in the absence of either or both of the parties; or
- (b) refer the matter for oral evidence.

(5) At the conclusion of the hearing pursuant to subsection (4)(a) or (b), the Court—

- (a) may confirm, amend, or set aside the interim protection order; and
- (b) shall issue a final protection order, in the form set out as Form V in the Second Schedule.

(6) The Registrar shall forthwith notify the parties of the result, and shall—

- (a) serve the original final protection order referred to in subsection (5)(b), on the respondent;
- (b) serve a certified copy of the final protection order referred to in subsection (5)(b), on the applicant.

(7) A final protection order shall be for such period as the Court considers necessary, but shall not exceed three years.

(8) Where a final protection order contains any prohibitions or directions, the Court may specify different periods, none of which shall exceed three years, as the period for which each prohibition or direction shall remain in force.

#### **14. Explanation of orders**

(1) Where the Court proposes to make an interim protection order or a final protection order, and the respondent is before the Court, the Court shall explain to the respondent—

- (a) the purpose, terms and effect of the order;
- (b) the consequences of failing to comply with the order; and
- (c) the means by which the order may be varied or revoked.

#### **15. Respondent to have notice of final protection order**

A respondent shall not be bound by a final protection order issued pursuant to section 13—

- (a) if he or she was not present at the time of the making of the order; or
- (b) if the order has not been served on him or her personally or in accordance with section 11.

#### **16. Variation and revocation of orders**

(1) Where an order is in force, a party to the proceedings in respect of whom the order was made may make an application to the Court in the form set out as Form VI in the Second Schedule, for an order to vary or revoke the order that is in force.

(2) On an application made pursuant to subsection (1), the Court may by order, vary or revoke the order.

(3) A copy of an application made under this section, must be served on each person who was a party to the proceedings, in respect of which the original order was made.

(4) In determining whether to vary or revoke an order, and issue an order in the form set out as Form VII in the Second Schedule, the Court shall have regard to the matters specified in section 8.

#### **17. Service of protection order**

Where an interim protection order, or a final protection order, is made or varied by the Court—

- (a) the Registrar shall arrange for the order to be drawn up in the form set out as Form VI in the Second Schedule and filed with the Court; and
- (b) the Court shall serve a copy of the order on—
  - (i) the respondent,
  - (ii) any other person to whom the order is to apply, whether or not the person is a party to the proceedings, and
  - (iii) the police officer in charge of the police station, located nearest to the area where the respondent or the applicant resides.

#### **18. Breach of protection order**

(1) A person against whom an order has been made, or to whom a direction has been issued by the Court, commits an offence if that person—

- (a) has notice of the order or direction, and

contravenes any provision of the order, or fails to comply with the direction.

(2) A person who commits an offence under subsection (1) is liable—

- (a) on a first summary conviction, to a fine not exceeding five thousand dollars, or to a term of imprisonment not exceeding eighteen months;
- (b) on a second summary conviction, to a fine not exceeding ten thousand dollars, or to a term of imprisonment not exceeding two years, or both;
- (c) on any subsequent summary conviction, to a period of imprisonment not exceeding five years.

(3) Where an order contains a direction of the Court pursuant to section 7, that the respondent seeks counselling, psycho-educational programming or therapy, and it is brought to the attention of the Court that the respondent has refused or neglected to comply with such a direction, and the Court finds that such refusal or neglect was unreasonable, the respondent commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(4) If a protection order is in force, a police officer may arrest, without warrant, a person whom the officer has reasonable cause to believe has contravened the order, and if the officer believes that the arrest of the person is reasonably necessary for the protection of the person for whose protection the order was made.

(5) An arrest under this section, or on a warrant under section 18(4), is an arrest for purposes of the Criminal Procedure Code, and other laws relating to arrested persons.

### PART III

#### *Police Powers of Entry and Arrest*

#### **19. Duties of police officers**

(1) A police officer shall respond to every complaint or report alleging domestic violence, whether or not the person making the complaint or the report is the victim.

(2) A police officer responding to a domestic violence complaint, shall complete a domestic violence report, which shall form part of a Domestic Violence Register, to be maintained by the Chief of Police in the prescribed manner.

(3) A domestic violence report shall be in the form set out as Form VIII in the Second Schedule, and shall include but not be limited to—

- (a) the name of the parties;
- (b) the relationship and sex of the parties;
- (c) information relating to the history of domestic violence between the parties;
- (d) the date and time the complaint was received; and
- (e) the type of the abuse and the weapon used, if any.

#### **20. Issue of warrant**

Where a judicial officer is satisfied, by information on oath, that—

- (a) there are reasonable grounds to suspect that a person on a premises has suffered, or is in imminent danger of physical injury at the hands of another person, in a situation amounting to domestic violence, and needs assistance to deal with or prevent the injury; and
- (b) a police officer has been refused permission to enter the premises for the purpose of giving assistance to the first mentioned person in paragraph (a),

the judicial officer may issue a warrant in writing, authorising a police officer to enter the premises specified in the warrant, at any time within twenty-four hours after the issue of the warrant, and subject to any conditions specified in the warrant, to take such action as is necessary, to prevent the commission or repetition of the offence, or a breach of the peace, or to protect life or property.

## **21. Police powers of arrest without warrant**

(1) A police officer may act in accordance with the provisions of the Criminal Procedure Code, where he or she has reasonable cause to believe, that a person is engaging in, or attempting to engage in, conduct which amounts to physical violence, and failure to act immediately may result in serious physical injury or death.

(2) This section does not authorise the entry onto premises by a police officer, for the purpose of any search or the arrest of any person, otherwise than in connection with the conduct referred to in subsection (1).

(3) Where a police officer exercises a power of entry pursuant to subsection (1), he or she shall immediately submit a written report to the Chief of Police, through the head of his or her division where the incident occurred, and the report shall contain —

- (a) the reasons for entering the premises without a warrant;
- (b) the offence being committed or about to be committed; and
- (c) the manner in which the investigation was conducted, and the measures taken to ensure the protection and safety of the person at risk.

(4) The report referred to in subsection (3), must be submitted to the Director of Public Prosecutions by the Chief of Police, within seven days of its receipt by the Chief of Police.

(5) Where a complaint is made against a police officer by a person resident in a premises, alleging that the entry of the police officer onto the premises pursuant to subsection (1), was unwarranted, the Chief of Police shall order an investigation into a complaint, and take such action as he may deem necessary in the circumstances.

## **22. Duty of police officer to assist victims**

Where a police officer has entered onto premises pursuant to sections 4, 20 and 21 (1), the police officer shall—

- (a) assist a person who has suffered injury;
- (b) ensure the welfare and safety of a child or dependant, who may be on the premises; and
- (c) prevent any further breach of the law.

## **23. Warrant of arrest and procedure upon arrest of respondent, where Court issues interim protection order**

(1) In granting an interim protection order pursuant to section 6, the Court may—

- (a) issue a warrant for the arrest of the respondent, in the form set out as Form IX in the Second Schedule; or
- (b) suspend the execution of such a warrant, subject to compliance with any prohibition, condition, obligation or order imposed under section 7.

(2) The warrant referred to in subsection (1), shall remain in force until the interim protection order is set aside.

(3) A police officer shall—

- (a) execute a warrant of arrest, upon its production and receipt of an affidavit, in the form set out as Form X in the Second Schedule wherein it is stated that the respondent has breached any prohibition, condition or obligation or order imposed pursuant to section 7; or
- (b) arrest the respondent upon receipt of an affidavit by the applicant, in the form set out as Form X in the Second Schedule, wherein it is stated that—
  - (i) an interim protection order has been issued pursuant to section 6, or that a final protection order has been issued pursuant to section 13,
  - (ii) a warrant of arrest for the respondent has been issued,
  - (iii) the warrant of arrest has been lost or destroyed, and
  - (iv) the respondent has breached any prohibition, condition, obligation or order imposed, pursuant to section 7.

(4) The Court shall issue the applicant with a second or further warrant of arrest, upon the applicant filing an affidavit in which it is stated that—

- (a) the respondent has not been arrested; or
- (b) the warrant of arrest issued has been lost or destroyed.

(5) Subject to this Act, the provisions of the Criminal Procedure Code relating to—

- (a) the form and manner of execution of warrants of arrest;
- (b) the arrest;
- (c) the detention, search, release from custody; and
- (d) the criminal prosecution of the respondent,

shall apply, with the necessary changes applicable in respect of warrants of arrest issued pursuant to subsection (1).

(6) A respondent arrested pursuant to subsection (3) shall—

- (a) not be released, unless—
  - (i) a Court orders the release, and
  - (ii) the respondent, having been given a reasonable opportunity to do so, adduces evidence, which satisfies the Court, that the interests of justice permits his or her release from detention in custody;
- (b) be brought before the Court as soon as reasonably possible, but not later than—
  - (i) forty-eight hours after arrest, or
  - (ii) at the end of the first Court date, after the expiry of the forty-eight hours, if the forty-eight hours expire outside the ordinary Court hours, or on a day which is not an ordinary Court day; and
- (c) be criminally charged with—
  - (i) an offence referred to in section 36, and
  - (ii) any other offence resulting from a complaint lodged by the applicant against the respondent.

## **24. Existing criminal law to apply**

(1) Subject to subsection (2), where a person is arrested pursuant to section 20 or 21, the person shall be charged in accordance with the relevant provisions of the criminal law, for committing, or attempting to commit, any of the offences, and shall be dealt with accordingly.

(2) Where upon hearing the evidence pursuant to section 13 for the granting of a final protection order, the Court is satisfied that—

- (a) the incident was an isolated one;
- (b) there are circumstances which make it desirable to preserve the family unit, and
- (c) the conduct complained of is not sufficiently grave to warrant the imposition of the order or the penalty, as the case may be, the Court may, with the consent of the applicant, withhold the granting of a final protection order, or the imposition of any penalty as prescribed by law, and require the respondent to enter into a bond of good behaviour for a period not exceeding six months.

(3) Where a bond of good behaviour has been entered into pursuant to subsection (2), the Court may prescribe such additional conditions as follows—

- (a) that the parties receive professional counselling, including family counselling;
- (b) that the parties report to a probation officer at certain fixed intervals; or
- (c) that the matter be reviewed by the Court within three months.

(4) A bond of good behaviour entered into pursuant to subsection (2) shall be forfeited if the Court is satisfied that—

- (a) the respondent has continued to engage in conduct amounting to domestic violence against the applicant;
- (b) based on a report from a probation officer, the Director, an approved social worker or a police officer, domestic violence is likely to be perpetrated against the applicant; or
- (c) the applicant has become fearful of the respondent to the extent, that he or she is no longer willing to continue the domestic relationship.

## PART IV

### *Miscellaneous*

#### **25. Conduct of proceedings**

(1) The following persons may be present during the hearing of any proceedings pursuant to this Act—

- (a) an officer of the Court;
- (b) parties to the proceedings and their attorneys-at-law;
- (c) witnesses; or
- (d) any other person permitted by the judicial officer to be present.

(2) A witness shall leave the Court room if asked to do so by the judicial officer.

(3) This section shall not limit any other power of the Court to hear proceedings in camera, or to exclude any person from the Court.

(4) Where an application is made on behalf of a child, the parent or guardian of that child, or the person with whom the child ordinarily resides with on a regular basis, shall be entitled to be a party to the proceedings.

(5) This section shall not prevent a child, on whose behalf an application for an order is made, from being heard in the proceedings, and where the child expresses his or her views, the Court shall take account of those views, having regard to the age and maturity of the child, and the ability of the child to express his or her views.



## **26. Evidence**

In any proceedings pursuant to this Act, other than criminal proceedings, the Court may receive such evidence as it thinks fit, whether it is otherwise admissible in a court of law.

## **27. Standard of proof**

A question of fact arising in any proceedings pursuant to this Act, other than criminal proceedings, shall be decided on a balance of probabilities.

## **28. Restriction of publication of reports**

(1) Subject to subsections (3) and (4), a person shall not publish any report of proceedings pursuant to this Act, other than criminal proceedings, except with the leave of the Court.

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars, or to a term of imprisonment not exceeding two years.

(3) This section does not limit—

- (a) the provisions of any other enactment relating to the prohibition or regulation of the publication of reports, or particulars relating to judicial proceedings; or
- (b) the power of the Court to punish any contempt of Court.

(4) This section shall not apply to the publication of any report in any publication that—

- (a) is of a *bona fide* professional or technical nature; or
- (b) is intended for circulation among members of the legal or medical profession, officers of the public service, police officers, psychologists, marriage counsellors or social workers.

## **29. Orders by consent**

In any proceedings pursuant to this Act, the Court may make any order with the consent of all the parties to the proceedings.

## **30. Appeals**

(1) A person aggrieved by—

- (a) an order of the Court; or
- (b) the refusal of the Court to make an order,

may, within twenty-eight days after the decision of the Court, appeal to the Court of Appeal.

(2) Except where the Court, which makes an order pursuant to the provisions of this Act otherwise directs, the operation of such an order shall not be suspended, by virtue of an appeal made pursuant to this section, and every order may be enforced in the same manner and in all respects, as if an appeal under this section is not pending.

## **31. Protection of mortgage**

(1) The rights conferred on any person in respect of any property by an order made under this Act, shall be subject to the rights of any person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if—

- (a) the mortgage, security, charge or encumbrance was registered before the order was registered; or
- (b) the rights of that other person entitled to that benefit, arise, under an instrument executed before the date of the making of the order.

(2) Money payable under any mortgage, security, charge or encumbrance, shall not be called up or become due, by reason of the making of the order under this Act.

### **32. Rules of the Court**

The Chief Justice may make Rules of the Court—

- (a) to regulate the practice and procedure of the Court with respect to proceedings under this Act; and
- (b) to provide for such matters as are necessary for giving full effect to this Act, and for its due administration.

### **33. Property rights**

This Act shall not be construed as altering the rights of a spouse, in respect of ownership of any real or personal property.

### **34. Obligation to report ill-treatment of a child**

(1) Subject to the Child (Protection and Adoption) Act, 2010, a—

- (a) health practitioner, dental practitioner and allied health practitioner or psychologist registered pursuant to the Health Practitioners Act;
- (b) nurse;
- (c) health or mental health practitioner;
- (d) social worker; or
- (e) teacher who examines, attends to or deals with any child, in circumstances giving rise to reasonable suspicion, that the child has been subject or witness to any act of violence, as a result of which the child suffers from injury, whether single or multiple, shall immediately notify a police officer of the said circumstances.

(2) A person referred to in subsection (1) shall not be liable, in respect of any notification given in good faith in accordance with this section.

### **35. Bail**

(1) Where the Court is required to determine whether to grant bail in respect of an offence committed under this Act, the Court shall consider—

- (a) the need to protect the applicant from domestic violence;
- (b) the welfare of a child or dependant, where the respondent or the applicant has custody of that child or dependant;
- (c) the welfare of any child or dependant being a member of the household; and
- (d) any hardship that may be caused to the respondent or other members of the family, if bail is not granted.

(2) The Court, in granting bail, may order that the recognisance be subject to any one or more of the following conditions, as the Court considers appropriate—

- (a) that the respondent not harass or molest, or cause another person to harass or molest the applicant;

- (b) that the respondent not be present on the premises in which the applicant works or resides; and
- (c) that the respondent not be in a locality, in which is situated, the premises in which the applicant works or resides.

(3) Where a police officer believes, on reasonable grounds, that a person, who has been admitted to bail subject to one or more conditions, has failed to comply with a condition of the recognisance, the police officer may arrest the person without a warrant.

### **36. Offences**

A person who contravenes any prohibition, condition or obligation or order imposed under this Act, and for which a penalty is not stipulated, commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars, or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment.

### **37. Regulations**

The Minister may make regulations to give effect to this Act.

### **38. Repeal and savings**

(1) The Domestic Violence Act No. 15 of 2001 is hereby repealed.

(2) Any application made, proceedings instituted, or order made under the Act referred to in subsection (1), shall be deemed to have been made or instituted, pursuant to this Act.

---

## **First Schedule**

### **DOMESTIC VIOLENCE ACT, NO. 19 OF 2010**

[Section 3.]

#### *Information to victim and applicant regarding his or her rights*

1. You have the right to request the assistance of a member of the Royal Grenada Police Force, in order to protect yourself and your children, and the member is obliged to provide you with information on how to obtain a protection order.

2. You may also request police assistance in locating and taking you and your children to a place of safety, including a shelter, the home of a family member or friend, or any other place of safety.

3. If you or your children are in need of medical treatment, you have the right to request a member of the Royal Grenada Police Force to assist you in obtaining such medical treatment.

4. A protection order can be obtained from the Court at any time of the day or night, and will be served on your abuser free of charge.

5. You may request that your address not be disclosed to your abuser.

6. The respondent can be ordered to pay emergency monetary relief, and any or all contact with you or your children may be prohibited.

7. You may also request the Court to evict the respondent or prohibit the respondent from preventing you to enter the shared household. This order is of a temporary nature, and if you wish it to be confirmed, you will be required to appear in Court at a later date.

8. If you and your children require any counselling or support, you should contact (.....) who can offer services to you and your children.

9. You also have the right to lodge a criminal complaint against the abuser, if a criminal offence has been committed against yourself and your children. You may do this now, or at any time in the future.

10. Should you obtain a Protection Order, or lodge a criminal complaint, in which false facts are knowingly alleged, you may be convicted of an offence.

If you do not understand any of the above information, you may request more detail from myself or another member of the Royal Grenada Police Force, that you may be more comfortable with.

Dated this ..... day of ....., 20(.....)

.....  
*Name of Police Officer.*

---

### Second Schedule

#### FORM I

#### DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 5.]

#### *Application for Protection Order*

1. (a) I ..... (full names) with ID. No./Date of Birth .....  
with the following particulars:

Residential Address .....

(Tel. No.) ..... Occupation .....

Nature of domestic relationship with the respondent .....

**(Hereinafter referred to as the APPLICANT); or**

(b) I ..... (full names) with Id. No./Date of Birth .....

with the following particulars: Residential Address .....

(Tel. No.) ..... Business Address .....

(Tel. No.) .....

On behalf of: ..... (Full names) **(Hereinafter referred to as the APPLICANT)** With ID. No./Date of Birth ..... with the following particulars

Residential Address .....

..... (Tel. No.) .....

Business Address .....

Occupation ..... Nature of domestic relationship with the respondent .....

On whose behalf the application is brought due to .....

.....  
..... (state relationship or concern)

**and whose consent has been obtained**, (except if the applicant is a child or dependant);

2. **HEREBY APPLY FOR A PROTECTION ORDER AGAINST—**

..... (Full Names) With ID. No./Date of Birth ..... with the following particulars:

Residential Address .....

.....

(Tel. No.) .....

Business Address .....

.....

Occupation .....

.....

(Hereinafter referred to as the RESPONDENT)

3. The following children (if any) have been born from the domestic relationship: .....

.....

4. **Since the respondent** at or near ....., and on or about the day of ..... 20 ( ) committed the following act(s):

See **Annex attached for the affidavit, together with any supporting affidavit(s)—**

5. **I request that the respondent be ordered**

- (a) Not to commit any act of domestic violence;
- (b) Not to enlist the help of another person to commit any act of domestic violence;
- (c) Not to enter the shared household;
- (d) Not to enter the applicant's residence;
- (e) Not to enter the applicant's place of employment;
- (f) Not to prevent the applicant or any child or dependant, who normally resides or resides in the shared household, from entering or remaining in the shared household or part thereof;  
or
- (g) Not to commit any other act;

**As requested and/or specified in the affidavit(s).**

6. **I further request the Court to order that—**

- (a) A member of the Royal Grenada Police Force is to accompany the applicant to the residence specified in the application, to supervise the collection of the Applicant's personal property;
- (b) A member of the Royal Grenada Police Force is to seize the arm or dangerous weapon, as specified in the affidavit;
- I The respondent is to pay the rent or mortgage payments specified in the affidavit;
- (d) The respondent is to pay emergency monetary relief, as specified in the affidavit;
- (e) The respondent is to pay the educational expenses, as specified in the affidavit;
- (f) The respondent is refused any contact with the child or children, as specified in the affidavit;
- (g) The respondent is granted structured contact with the child or children, as specified in the affidavit; or
- (h) The address of the applicant's residence shall not be disclosed to the respondent.

7. I am likely to report a breach of the Protection Order at the ..... Station of the ( ) Police Service.

8. Additional conditions requested as per affidavit: .....

**DEPONENT** ..... **DATE** .....

9. I certify that before administering the oath/taking the affirmation I asked the Deponent the following questions and noted his or her answers as indicated below:—

(a) Do you know and understand the contents of the above declaration?

Answer .....

(b) Do you have any objection to taking the prescribed oath?

Answer .....

I certify that the Deponent has acknowledged that he or she knows and understands the contents of this declaration, which was sworn to/affirmed before me, and that the Deponent's signature/ thumbprint/ mark, was placed thereon in my presence.

Dated at ..... this ..... day of ....., 20(.....).

*Judicial Officer*

FORM II

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 6(1).]

*Interim Protection Order*

IN THE (FAMILY) COURT .....

HELD AT ..... APPLICATION NO. ....

In the matter between—

**APPLICANT** .....

(Id. No/ Date of Birth) .....

**AND**

**RESPONDENT**

(Id. No. /Date of Birth) .....

1. Respondent's particulars .....

Residential Address .....

Business Address .....

(Tel. No.) .....

Occupation .....

2. Whereas the Applicant (or ..... on behalf of the applicant), has applied for a

protection order against the respondent, as per the affidavit(s) and record of oral evidence (if any) attached, and after consideration of the application;

3. The Court orders that the application for a protection order be—

3.1 **Dismissed**; or

3.2 **Granted**: and the respondent is ordered

3.2.1 Not to commit the following act(s) of domestic violence .....

3.2.2 Not to enlist the assistance of any other person to commit the acts of domestic violence specified in paragraph 3.2.1;

3.2.3 Not to enter the shared household at .....

3.2.4 Not to enter the following parts of the shared household .....

at .....

3.2.5 Not to enter the Applicant's residence

3.2.6 Not to enter the applicant's place of employment

at .....

3.2.7 Not to prevent the applicant or any child or dependant who normally resides or resides in the shared household at .....

from entering or remaining in the shared household, or any part thereof;

3.2.8 Not to commit any other act, to

wit .....

3.2.9 To make rent or mortgage payments in the sum of ..... per month;

3.2.10 To pay the sum of ..... to the applicant as educational expenses.

4. It is further ordered that—

4.1 A member of the police force accompanies the applicant to the following residence in order to supervise the collection of personal property;

i.e. ....

4.2 A member of the police force at ..... seizes the following arm dangerous weapon in the possession of the respondent

i.e. ....

4.3 The applicant's address is not to be disclosed to the respondent;

4.4 The respondent is refused any contact with the following children

i.e. ....

4.5 The respondent is allowed contact with the following children

i.e. ....

on the following basis .....

4.6 A warrant is authorised for the arrest of the respondent, the execution of which is suspended, subject to the respondent's compliance with the provisions of the protection order as stated above; and

4.7 A copy of this order and the warrant of arrest be forwarded to the police station ..... at ..... once this interim protection order has been served on the respondent.

5. The respondent is furthermore hereby informed of his or her right to appear in the Family Court at ..... on the ..... day of ..... 20( ) at ..... in order to show cause as to why the interim protection order should not be confirmed and made final.

Judicial Officer

Date

FORM III

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 10.]

Notice of Proceedings

In the State of ( )

In the District of .....

BETWEEN

..... APPLICANT

AND

..... RESPONDENT

TO THE RESPONDENT

An application pursuant to section 5 of the Domestic Violence Act, 2010, for a protection order, has been made by .....

(name of applicant)

A copy of the application is attached. The application has been set down for hearing on the ..... day of ....., at ..... A.M/P.M at .....

IF YOU DO NOT APPEAR IN PERSON AT THE HEARING OF THE APPLICATION, THE COURT MAY

- (a) deal with the application in your absence; or
(b) issue a warrant for your arrest to be brought before the Court.

(Registrar) of the Court

Dated this ..... day of ..... 20.....

FORM IV

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 10(5).]



*Affidavit for use in Proving Service of Process*

In the State of ( )

No. ....

Return of service of process in respect of domestic violence offence(s) for the Family Court

Name of applicant .....

Name of respondent .....

Document served .....

Date of service .....

Place of service .....

Mode of service .....

I do swear that the above Return of Service is true and in accordance with the facts of such service.

.....  
(Deponent)

Sworn by me ..... the above-named Deponent

This ..... day of .....

.....  
(Registrar) of the Court

---

FORM V

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 13(1) and 13(5).]

*Final Protection Order*

IN THE FAMILY COURT OF .....

HELD AT ..... APPLICATION NO. ....

In the matter between—

**APPLICANT** .....

(Id. No./Date of Birth) .....

AND

**RESPONDENT:** .....

(Id. No./Date of Birth) .....

Whereas the applicant has applied for a protection order; and

After considering the facts of the matter;

The Court orders that the interim protection order be—

1. Confirmed;
2. Amended as follows: .....

3. Set aside

Dated at ..... this ..... day of ..... 20(.....)

.....  
*Judicial Officer*

.....  
*Date*

---

FORM VI

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 16(1).]

*Application for Variation or Revocation of Interim/Final Protection Order*

In the State of .....

In the District of .....

BETWEEN

..... APPLICANT

AND

..... RESPONDENT

I ..... hereby apply for a variation/revocation of  
(Name of Applicant)

the order made against ..... on the  
(Name of Respondent)

..... day of ....., by the Court, (a copy of which is attached  
to the said application), in respect of certain conduct or threatened conduct towards

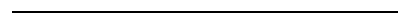
.....  
(Name of person who is protected by the order)

I ask for a revocation/variation of the order in the following terms—

SPECIFY DETAILS OF VARIATION

.....  
Applicant

Dated this ..... day of ..... 20 .....



FORM VII

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 16(4).]

*Order Varying Interim/Final Protection Order*

In the State of .....

In the District of .....

The Court, having heard an application made pursuant to section 16 of the Act, by (name of the applicant) in respect of conduct or threatened conduct of (name of respondent), and the Court having on the ..... day of ....., made an order, a copy of which is herewith attached, prohibiting the respondent from engaging in the conduct specified therein.

NOW, the Court, on the application of ....., does this day Order that the (interim/final) protection order be:

1. REVOKED

(specify effective date of revocation)

2. VARIED AS FOLLOWS—

Specify details of variation

.....  
.....

.....  
.....  
.....  
.....  
.....

Dated this ..... day of ..... 20 .....

.....  
*Registrar of Court*

---

FORM VIII  
DOMESTIC VIOLENCE ACT, NO. 19 OF 2010  
[Section 19(3).]

*Domestic Violence Police Report*

Station ..... Division ..... Reference No. ....  
Complaint made by .... (surname) ..... (first name) .....  
Address .....  
Relationship of victim to alleged offender .....  
Mode of report .....  
Date ..... Time ..... Diary Reference .....  
Recorded by..... (Number/Rank/Name) .....  
Name of (surname)..... (first name) .....  
Address .....  
Telephone No. .... Nature of domestic relationship to alleged  
offender .....  
Sex ..... Age ..... Occupation .....  
Address of employment .....  
Name of alleged offender ..... (surname) ..... (first name) .....  
Address .....  
Sex ..... Age ..... Occupation .....  
Telephone No. .... Nature of domestic relationship to alleged offender .....  
Address of employment .....  
Name of Witness ..... Name of Witness .....  
Address .....  
Relationship to alleged offender .....

**BRIEF FACTS AS REPORTED**

.....  
.....  
.....  
.....

Extent of Inquiry .....  
Medical report Form Attached (*tick*) Yes  No   
Instrument used to inflict injury .....  
Whereabouts of children at time of incident .....  
.....



.....  
.....  
.....  
*Investigator*

.....  
.....  
.....  
*Supervising Officer*

.....  
.....  
.....  
*Date*

.....  
.....  
.....  
*(Date)*

---

FORM IX

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 23(1).]

*Warrant of Arrest*

IN THE FAMILY COURT OF HELD AT APPLICATION NO. ....

In the matter between

**APPLICANT** .....

(\*Id. No./Date of Birth)

**AND**

**RESPONDENT** ..... (\*Id. No./Date of Birth)

**TO ALL POLICE OFFICERS**

**Whereas** \*the attached Interim Protection Order/a Protection Order as attested to by the applicant in the attached affidavit, was granted against the respondent by the Court for the district of .....  
on the ..... day of ..... ; and

**Whereas** the applicant has stated in the affidavit attached, that the respondent has breached (a) condition(s) of the Protection Order;

**Therefore**, you are hereby authorised and ordered to forthwith arrest the respondent, in terms of the Domestic Violence Act, 2010.

GIVEN UNDER MY HAND AT THIS ..... DAY OF ..... 20( )

.....  
.....  
.....  
*JUDICIAL OFFICER*

.....  
.....  
.....  
*DATE*

**\*Delete whichever is not applicable**

---

FORM X

DOMESTIC VIOLENCE ACT, NO. 19 OF 2010

[Section 23(3).]

*Breach of Protection Order*

IN THE COURT OF HELD AT APPLICATION NO. ....

In the matter between

**APPLICANT** .....

(\*Id. No./ Date of Birth)

**AND**

**RESPONDENT** .....

(\*Id. No./Date of Birth)

1. .... (Full Names)  
 (\*Id. No./Date of Birth)  
 Residential Address .....  
 (Tel. No.) .....  
 Business Address .....  
 (Tel. No.) .....  
 Occupation .....  
 (Hereinafter referred to as the APPLICANT)

Hereby declare under **oath/solemnly affirm that:**

A Protection Order was granted on the ..... day of ..... in the Court at  
 ..... Against ..... (Full Names)  
 Residential Address .....  
 (Tel. No.) .....  
 Business Address .....  
 (Tel. No.) .....  
 Occupation .....  
 (Hereinafter referred to as the RESPONDENT)

2. \*A copy of the Protection Order (indicating what orders were made), and the original Warrant of Arrest are attached.
3. \*A copy of the Protection Order and/or the original Warrant of Arrest cannot be attached for the following reasons—

.....  
 .....

In the said Protection Order, the respondent was ordered—

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....
- (f) .....
- (g) .....

4. The respondent has breached the Protection Order (which has not been set aside), in that \*he/she on the .....day of .....

.....

*Signature of Deponent*

*Date*

5. I certify that before administering the \*oath/taking the affirmation, I asked the Deponent the following questions, and noted \*his/her answers in \*his/her presence as indicated below—

- (a) Do you know and understand the contents of the above declaration?

Answer .....

- (b) Do you have any objection to taking the prescribed oath?

Answer .....

- (c) Do you consider the prescribed oath to be binding on your conscience?

Answer .....

I certify, that the Deponent has acknowledged that \*he/she knows and understands the contents of this declaration which was \*sworn to/affirmed before me, and that the Deponent's \*signature/thumb print/mark was placed thereon in my presence.

Dated at this ..... day of ..... 20(..... )

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**CHAPTER 84  
DOMESTIC VIOLENCE ACT**

**SUBSIDIARY LEGISLATION**

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1. Domestic Violence (Summary Procedure) Rules
- 

DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

ARRANGEMENT OF RULES

RULE

1. Short title.
2. Forms for use in domestic violence cases.
3. Affidavit or statutory declaration in support of application.

SCHEDULE

*Forms*

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DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

[SRO 13 of 2006.]

[17th February, 2006.]

**Short title**

1. These Rules may be cited as the Domestic Violence (Summary Procedure) Rules.

**Forms for use in domestic violence cases**

2. The forms in the Schedule shall, with such variations as circumstances may require, be used for applications under sections 4, 7, 8, 10, 11 and 13 of the Domestic Violence Act, Chapter 84.

**Affidavit or statutory declaration in support of application**

3. Applications made under sections 4, 7, 8, 10, 11 and 13 shall be supported by an affidavit or statutory declaration in Form 5 in the Schedule, with such variations as circumstances may require, unless the court dispenses with it.

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SCHEDULE

*Forms*  
FORM 1  
DOMESTIC VIOLENCE ACT  
DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES  
*Application for Protection Order*  
*or*  
*Interim Protection Order*  
[Section 4(1) and (3) and Rule 2.]

Every section of this form must be completed.

**Section A**

I, ..... of  
(Name of Applicant)

.....  
(Address)

apply for a Protection Order against ..... of  
(Name of Respondent)

.....  
(Respondent Address)

**Section B**

[You must tick one of the boxes. If you tick box (e) or (f), you must also cross out any part of the sentence that does not apply]

The Applicant is—

- (a) the person against whom abuse has been or is likely to be directed;
- (b) the parent or guardian of the child (under 18) against whom abuse has been or is likely to be directed;
- (c) a police officer;
- (d) a person appointed by the Minister for the purpose of section 3;
- (e) the person with whom the child against whom abuse has been or is likely to be directed normally resides or resides on a regular basis;
- (f) the person with whom the Respondent's dependant against whom abuse has been or is likely to be directed normally resides or resides on a regular basis.

**Section C**

[You must tick one of the following boxes. If you are not making this application on your own behalf, you must also fill in the name and address of the person on whose behalf the application is brought]

- This application is made on my own behalf.
- This application is made on behalf of .....

(Name)

of .....  
(Address)

**Section D**

[You must tick the appropriate box(es), and if you are not making this application on your own behalf, you must fill in the name of the person who needs the protection order]

- [I am/ ..... is] a member of the Respondent's household.
- [I am/ ..... is] the Respondent's Husband/Wife/Former Husband/Former Wife.
- [I am/ ..... is] the Respondent's Common Law Husband/Common Law Wife/Former Common Law Husband/Former Common Law Wife.
- [I am/ ..... is] the Respondent's Child.
- [I am/ ..... is] the Respondent's Parent.
- [I am/ ..... is] dependant on the Respondent.
- [I am/ ..... is] dependent on the Respondent's Husband/Wife/Former Husband/Former Wife.
- [I am/ ..... is] dependent on the Respondent's Common Law



Husband/Common Law Wife/Former Common Law Husband/Former Common Law Wife.

**Section E**

[You must tick the appropriate box(es) and fill in the blank if necessary.]

I am asking the Court to prohibit the Respondent from—

- entering or remaining in the household residence of the Applicant;
- entering or remaining in the area in which the household residence of the Applicant is located;
- entering or remaining in the place of work of the Applicant;
- entering the place of education of the Applicant;
- entering and remaining in any place where the Applicant happens to be;
- molesting the Applicant;
- .....

*Important note.*—The affidavit or statutory declaration that you file with this document should contain information to support your request for the order(s) you are asking the Court to make.

I am also asking the Court to make such other Order as to the Court may see fit.

.....  
*Date*

.....  
*Signature*

(The applicant or applicant’s representative named in Section A must sign here)

FORM 2

DOMESTIC VIOLENCE

DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

*Application for Occupation Order or Interim Occupation Order*

[Sections 7(1) and 8.]

Every section of this form must be completed.

**Section A**

I, ..... of  
 (Name of Applicant)  
 apply for an Occupation Order against .....  
 ..... of  
 (Name of Respondent)  
 .....  
 (Respondent’s Address)

**Section B**

[You must tick one of the boxes (a), (b), (c), (d) or (e). If you tick box (e), or (f) you must also cross out any part of the sentence that does not apply.] I am—

- (a) the person against whom abuse has been or is likely to be directed;
- (b) the parent or guardian of the child (under 18) against whom abuse has been or is likely to be directed;
- (c) a police officer;
- (d) a person appointed by the Minister for the purpose of section 3;
- (e) the person with whom the child against whom abuse has been or is likely to be directed normally resides or resides on a regular basis;
- (f) the person with whom the Respondent’s dependant against whom abuse has been or is likely to be directed normally resides or resides on a regular basis.

**Section C**

[You must tick one of the following boxes. If you are not making this application on your own behalf, you must also fill in the name and address of the person on whose behalf the application is brought.]

- This application is made on my own behalf.
- This application is made on behalf of .....  
 (Name)

of .....

(Address)

**Section D**

[You must tick the appropriate box(es), and if you are not making this application on your own behalf, you must fill in the name of the person on whose behalf the application is brought.]

- [I am/ ..... is] a member of the Respondent's household.
- [I am/ ..... is] the Respondent's Husband/Wife/Former Husband/Former Wife.
- [I am/ ..... is] the Respondent's Common Law Husband/Common Law Wife/Former Common Law Husband/Former Common Law Wife.
- [I am/ ..... is] the Respondent's Child.
- [I am/ ..... is] the Respondent's Parent.
- [I am/ ..... is] dependent on the Respondent.
- [I am/ ..... is] dependent on the Respondent's Husband/Wife/Former Husband,/Former Wife.
- [I am/ ..... is] dependent on the Respondent's Common Law Husband/Common Law Wife/Former Common Law Husband/Former Common Law Wife.

**Section E**

[You must fill in the address of the residence and the name of the Applicant or other person, as appropriate.]

I am asking the Court to make an occupation order granting to .....  
the right to personally occupy the household residence located at .....  
and any other premises forming part of the household residence for such period and on such terms  
and subject to such conditions as the Court thinks fit.

.....  
*Date*

.....  
*Signature*

(The applicant or applicant's representative named in Section A sign here)

FORM 3

DOMESTIC VIOLENCE ACT

DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

*Application for Tenancy Order or Interim Tenancy Order*

[Sections 10 and 11.]

Every section of this form must be completed.

**Section A**

I, ..... of  
(Name of Applicant)

.....  
(Address)

apply for Tenancy Order against .....  
..... of

(Name of Respondent)

..... in respect  
(Respondent's Address)

of a dwelling-house located at .....

(Address of dwelling-house)

**Section B**

[You must tick one of the following boxes.]

I am—

- the person against whom abuse has been or is likely to be directed;
- the parent or guardian of the child (under 18) against whom abuse has been or is likely to be directed;
- a police officer;
- a person appointed by the Minister for the purpose of Section 3.

**Section C**

[You must tick one of the following boxes. If you are not making this application on your own behalf, you must also fill in the name and address of the person on whose behalf the application is brought.]

- This application is made on my own behalf.
- This application is made on behalf of .....

(Name)

of .....

(Address)

**Section D**

[You must tick the appropriate box(es), and if you are not making this application on your own behalf, you must fill in the name of the person on whose behalf the application is brought.]

- [I am/ ..... is] a member of the Respondent's household.
- [I am/ ..... is] the Respondent's Husband/Wife/Former Husband/Former Wife.
- [I am/ ..... is] the Respondent's Common Law Husband/Common Law Wife/Former Common Law Husband/Former Common Law Wife.
- [I am/ ..... is] the Respondent's Child.
- [I am/ ..... is] the Respondent's Parent.
- [I am/ ..... is] dependent on the Respondent.
- [I am/ ..... is] dependent on the Respondent's Husband/Wife/Former Husband/Former Wife.
- [I am/ ..... is] dependent on the Respondent's Common Law Husband/Common Law Wife/Former Common Law Husband/Former Common Law Wife.

**Section E**

[You must fill in the address of the residence and the name of the Applicant or other person, as appropriate.]

I am asking the Court to make a tenancy order vesting the tenancy of the dwelling-house located at ..... in ..... for the benefit of .....

.....  
*Date*

.....  
*Signature*

(The applicant or applicant's representative named in Section A must sign here)

FORM 4

DOMESTIC VIOLENCE ACT

DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

*Application for Variation or Discharge of Order*

[Sections 6, 9 and 13.]

Every section of this form must be completed.

**Section A**

I, .....  
(Name of person applying for the order)

of .....  
(Address)

apply for the ..... Order made  
against .....  
(Name of respondent against whom the order was made)

on .....  
(Date on which order was made)

To be—

- discharged;
- discharged and the tenancy revested (*for tenancy orders only*);
- varied by extending the period specified in the order referred to above as follows: ;
- varied by reducing the period specified in the order referred to above as follows: ;
- varied by changing the terms and conditions imposed in the order referred to above as follows: .....

The reasons for my application are set out in my affidavit/statutory declaration, which is attached.

**Section B**

[You must tick one the following boxes]

- I am the Respondent against whom the order referred to above was made.
- I am the Applicant in respect of whom the order referred to above was made.

.....  
*Date*

.....  
*Signature*  
(The applicant must sign here)

FORM 5A

DOMESTIC VIOLENCE ACT

DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

*Affidavit in Support of Application*

[Rule 3.]

I, ..... of  
(Name)

.....  
(Address)

In support of my application make oath and say as follows:

.....  
.....  
.....  
.....  
.....  
.....  
.....

[If you are attaching documents, please tick one or more of the following boxes. If you tick the

“Other” box, you must say what kind of document it is.]

I have attached the following documents:

- Medical Certificate
- Medical Report
- Police Report
- Bank Statement
- Photograph(s)
- Original or certified true copy of Lease/Tenancy Agreement
- Original or certified true copy of Rent Book/Rent receipts
- Other – briefly describe the document(s) .....

SWORN at .....  
 .....  
 This ..... day of ....., 20.....  
 Before me—  
 .....

.....  
*Signature*  
 Name printed .....

FORM 5B

DOMESTIC VIOLENCE ACT

DOMESTIC VIOLENCE (SUMMARY PROCEDURE) RULES

*Statutory Declaration in Support of Application*

[Rule 3.]

I, ..... of  
 (Name)

.....  
 (Address)

Do solemnly and sincerely declare that:

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

[If you are attaching documents, please tick one or more of the following boxes. If you tick the “Other” box, you must say what kind of document it is.]

I have attached the following documents:

- Medical Certificate
- Medical Report
- Police Report
- Bank Statement
- Photograph(s)
- Original or certified true copy of Lease/Tenancy Agreement

- Original or certified true copy of Rent Book/Rent receipts
- Other – briefly describe the document(s) .....

And I make this affidavit/solemn declaration conscientiously believing it to be true and by virtue of the provisions of the Oaths Act.

SWORN/DECLARED at

..... }  
 ..... } *Signature*

This ..... day of ....., 20..... Name Printed .....

Before me—

.....

**NOTES TO FORMS 5A AND 5B**

Notes to Person swearing the Affidavit or making the Statutory Declaration in support of an Application for a Protection Order, Occupation Order, Interim Protection Order or an Interim Occupation Order:

If you are swearing an affidavit or making a statutory declaration in support of an application for an Order that is being made with notice to the Respondent, your Affidavit or declaration should provide as much of the following information as is available to you—

- (1) the name of the person or persons that you say has used or threatened to use domestic violence;
- (2) a description of what was done/not done/said, as the case may be;
- (3) the dates when these things were done/not done/said;
- (4) the persons to whom or in respect of whom these things were done/not done/said;
- (5) information as to your belief that the domestic violence is likely to occur again and reasons for your belief;
- (6) information about any reports or other documents that you are attaching in support of your application e.g. medical reports, photographs;
- (7) if the order is for exclusive occupation, the name of any person other than the Applicant and Respondent who has an interest in the property; and
- (8) other relevant information.

If you are swearing an affidavit or making a statutory declaration in support of an application for an order that is being made without notice to the Respondent, your affidavit should also include your reasons for believing that—

- (1) giving notice of the application to the Respondent would cause delay;
- (2) the delay would or might result in physical injury to the Applicant or cause undue hardship to the Applicant.

Note to Person swearing the Affidavit or making the Statutory Declaration in support of an Application for a Tenancy Order or an Interim Tenancy Order:

If you are swearing an affidavit or making a statutory declaration in support of an Application for a Tenancy Order that is being made with notice to the Respondent, your affidavit should provide as much of the following information as is available to you—

- (1) the name of the person or persons that you say has used or threatened to use domestic violence;
- (2) a description of what was done/not done/said, as the case may be;
- (3) the dates when these things were done/not done/said;
- (4) the persons to whom or in respect of whom these things were done/not done/said;
- (5) information as to your belief that the domestic violence is likely to occur again and reasons for your belief;
- (6) the name of the tenant or tenants of the dwelling-house in respect of which a Tenancy Order is sought;
- (7) the names of the persons who usually reside in the dwelling-house and their relationship to the Applicant;
- (8) information about any reports or other documents that you are attaching in support of your

application e.g. medical reports, photographs; and

(9) other relevant information.

If you are swearing an affidavit or making a statutory declaration in support of an application for a tenancy order that is being made without notice to the Respondent, your affidavit should also include your reasons for believing that—

- (1) giving notice of the application to the Respondent would cause delay;
- (2) the delay would or might result in physical injury to the Applicant or cause under hardship to the Applicant.

Note to Person swearing the Affidavit or making the Statutory Declaration in support of an application to discharge a protection order, to vary or discharge an occupation order or to discharge a tenancy order and revest the tenancy.

*Note.*—Protection Orders may be discharged Occupation Orders may be varied or discharged  
Tenancy Orders may be discharged and revested

In the affidavit, you should state—

- (3) the nature of the order and the date on which it was made; if you have a copy of the order, you should attach it to your affidavit;
- (4) if you were a party to the proceedings in which the order was made and specify your interest i.e. state if you were the Respondent, the landlord, a co-tenant, etc.;
- (5) state the facts on which you rely to support your request for the order to be varied or discharged. State the reasons why you want the order to be varied or discharged as the case may be.

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