

SPECIAL ISSUE

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THE PROTECTION AGAINST DOMESTIC VIOLENCE ACT

(No. 2 of 2015)

THE PROTECTION AGAINST DOMESTIC VIOLENCE RULES,
2020

ARRANGEMENT OF RULES

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THE PROTECTION AGAINST DOMESTIC VIOLENCE ACT*(No. 2 of 2015)*

IN EXERCISE of the powers conferred by section 34 of the Protection Against Domestic Violence Act, 2015, the Chief Justice makes the following Rules—

**THE PROTECTION AGAINST DOMESTIC VIOLENCE RULES,
2020**

1. These Rules may be cited as the Protection Against Domestic Violence Rules, 2020. Citation.
2. (1) A person who suspects that an act of domestic violence is being or has been committed may complain to a police officer or any other person in authority in Form PADV 1 set out in the Schedule. Filing a complaint.
(2) The person to whom a complaint of domestic violence is made shall, subject to section 6 (1) of the Act—
 - (a) assist the complainant or representative to fill out the relevant forms; and
 - (b) enter the information received under paragraph (1) in a register kept and maintained for the purpose.
(3) The person to whom a complaint is made shall assist the complainant or the victim or, where the victim is a child or physically, mentally, intellectually or sensory challenged person, the parent or guardian of the child or such challenged person, to apply for an order of protection .
3. (1) An application for an order of protection shall be in Form PADV 2 set out in the Schedule. Application for an order of protection.
(2) A complainant may authorize his or her representative to apply for an order of protection on his or her behalf in Form PADV 3 set out in the Schedule.
(3) A respondent may file in Court and serve a reply on the complainant or complainant's representative in Form PADV 7 set out in the Schedule within fourteen days of being served with an application for an order of protection.
(4) The Court shall set down the matter for mention for directions within seven days of service of the reply by the respondent, at which time the Court shall address the following issues—
 - (a) joinder of parties;
 - (b) consolidation of applications;
 - (c) filing further documents;
 - (d) settlement on issues for determination;
 - (e) mode of hearing; and
 - (f) fixing of a hearing date.
(5) An application for an order of protection shall be supported by an affidavit and where the application is brought by the complainant's representative, the affidavit shall set out—

- (a) the relationship between the representative and the complainant;
- (b) the capacity in which the representative makes the application;
- (c) age of the complainant if the complainant is a child;
- (d) nature of the complainant's disability, if any; and
- (e) the facts that the representative is relying on to support the application.

4. At any time during the hearing of an application for an order of protection, or after the protection order has been issued—

Withdrawal or substitution of a complainant's representative.

- (a) the complainant may apply for the revocation of consent by the complainant to be represented by his or her representative in Form PADV 4 set out in the Schedule; or
- (b) the complainant's representative may give notice of his or her withdrawal from being the complainant's representative in Form PADV 5 set out in the Schedule.

5. An enforcement officer shall—

Duties of enforcement officers.

- (a) inform the applicant in a language the applicant understands of reliefs available under the Act;
- (b) inform the applicant of the applicant's right to lodge a criminal complaint against the respondent;
- (c) make available to the applicant the relevant application forms free of cost; and
- (d) explain to the applicant the contents of the forms in a language the applicant understands; and
- (e) help applicant to fill in the relevant forms.

6. In determining whether to grant an order of protection, the Court may, subject to section 12 (1) of the Act, take the following into consideration—

Consideration in making orders of protection.

- (a) any violence inflicted by the respondent on the applicant or by the applicant on the respondent;
- (b) where the applicant and respondent have dependants, any violence inflicted on the dependents by either the respondent or applicant;
- (c) whether or not the respondent or applicant has been convicted of an offence that involves violence or the threat of violence;
- (d) the age and state of health of the applicant, respondent or any dependent;
- (e) the applicant's or respondent's perception of the risk to his or her safety or welfare due to the behaviour of the other party;

- (f) any evidence of deterioration in the physical, psychological or emotional wellbeing of the applicant or any dependent that has been directly caused by fear of the behaviour of the other party;
- (g) any incidences of substance abuse, including abuse of alcohol, by the respondent, applicant or a dependant; and
- (h) any other matter which appears to the Court to be relevant to the safety or welfare of the applicant, the respondent or any dependant.

7. (1) The Court, upon receipt of an *ex parte* application for interim protection orders, if satisfied by examining the evidence submitted that the respondent has committed, is committing or threatening to commit or abet an act of domestic violence, may issue an interim order of protection against the respondent.

Interim orders of protection.

(2) Where the Court grants an *ex parte* interim order of protection, the applicant, or enforcement officer as may be directed by the Court in the order, shall, within seven days from the date of issuance, serve the order on the respondent and any other person against whom the order is issued.

8. (1) Pursuant to the provisions of section 12 (5) of the Act, the Court may issue a notice to show cause to the respondent in Form PADV 6 set out in the Schedule as to why an order of protection should not be issued against the respondent.

Notice to show cause.

(2) The respondent shall show cause as to why a protection order should not be issued within seven working days after being served with the notice.

9. (1) Where the representative of a child, who is not the child's parent or guardian, applies for an order of protection, the guardian or the parent of the child shall be served with the notice within three days of filing the application.

Service of applications.

(2) The Court shall not issue an order of protection unless it is satisfied that service under paragraph (1) has been effected or that reasonable efforts to serve the child's parent or guardian have failed.

10. (1) Whenever a Court issues an interim order of protection *ex parte*, it shall summon the respondent to appear in accordance with section 12 (4) of the Act within five days of service, which summons shall be attached to the order.

Summons to appear.

(2) If the respondent fails to appear in person at the time fixed for the hearing of the application, the Court may—

- (a) proceed to hear and determine the matter in the respondent's absence; or
- (b) if satisfied that it is appropriate to do so, adjourn the matter and issue a warrant for the police to arrest and bring the respondent before the Court.

11. The Court may, after hearing the parties, issue an order of protection pursuant to section 19 of the Act if the Court is satisfied that

Orders of protection.

an act of domestic violence has been committed or is likely to be committed by the respondent.

12. (1) Where there is personal injury, financial loss, trauma, psychological damage, damage to movable or immovable property, or any possibility of such damage or loss as a result of an act of domestic violence, the complainant may file a claim for compensation—

Orders for compensation.

- (a) along with the application for an order of protection order; or
- (b) separate from the application for an order of protection within three years after the act of domestic violence.

(2) Where any party suffers injury, damage or loss as contemplated in paragraph (1), the Court may award such compensation in respect of the injury, damage or loss as it deems just.

(3) The Court shall dispose of the application submitted under paragraph (1) within six months of it being filed.

(4) A party claiming compensation shall provide proof of actual or projected loss or damage incurred by way of an affidavit in Form PADV 8.

(5) The Court may make an order for lump sum payment or monthly payments of compensation.

(6) The Court shall send a copy of the order for compensation to the parties and to the enforcement officer within the local limits of whose jurisdiction the respondent ordinarily resides or works.

(7) Where the respondent is an employee, a copy of the compensation order shall be served upon the respondent's employer.

(8) The enforcement of an order under these rules shall be in accordance with the Civil Procedure Rules, 2010.

13. (1) A party who is dissatisfied with an order of protection, or upon mutual agreement by the parties, may apply to the Court to discharge or vary the protection order.

Applications for variation or setting aside of orders of protection.

(2) An application for the discharge or variation of a protection order in terms of section 12 (5) of the Act shall be made in Form PADV 9 set out in the Schedule.

14. Order 5 of the Civil Procedure Rules, 2010 shall apply to these Rules with necessary modifications with respect to the service of anything that needs to be served under these Rules.

Service.

15. The Court shall dispose of every application made under this Act within sixty days of the date of the application.

Disposal of cases.

16. (1) A party who is dissatisfied by an order or decision of the Court may appeal to the High Court within thirty days from the date of the order or decision.

Appeals.

(2) An appeal under paragraph (1) shall be in Form PADV 10 set out in the Schedule.

(3) The provisions of section 30 of the Act shall apply with respect to an appeal under these Rules.

(4) An appeal under paragraph (1) shall be in accordance with Order 42 of the Civil Procedure Rules, 2010.

17. Notwithstanding any provisions of these Rules, the Court may make any orders in respect of time. Time.

18. Notwithstanding anything contained in these Rules, a Court may make such orders as to cost as it deems fit. Costs.

19. The forms prescribed under these Rules shall be made available for at no cost. Availability of forms.

SCHEDULE

FORM PADV 1

INFORMATION ON DOMESTIC VIOLENCE

[Rule 2 (1)]

1. PARTICULARS OF COMPLAINANT

Full name	
Identification/passport Number	
Date of birth	
Nationality	
Home or temporary address	
Mobile telephone number	
e-mail address	
Occupation	
Work address	
Work telephone number	
Address of service (where you want any written information sent to you)	
Disability (specify if relevant)	

1.1 Sex: ☐ male ☐ female ☐ intersex (tick where appropriate)

1.2 Do you need an interpreter?

a. Yes ☐

b. No ☐

1.3 If yes, please state your preferred language (orally or in sign)

1.4 Do you live in the same house as the respondent?

c. Yes ☐

d. No ☐

1.5 Should we keep your contact information confidential from the respondent and the associated respondent?

a. Yes ☐

b. No ☐

1.6 If yes, which contact information should be kept from the respondent or associated respondent?

- a. Phone number ☐
- b. Home address ☐
- c. Place of employment ☐
- d. Work address ☐
- e. Any other (specify).....

1.7 Emergency contact

(if applying for a Protection Order, give contact details of another person who can be contacted in an emergency)

Full name	
Identification/passport Number	
Mobile number	
Home address	
E-mail address	
Disability (state if relevant)	

2 PARTICULARS OF RESPONDENT- in so far as such are available

Full name	
Identification/passport Number	
Date of birth	
Nationality	
Home or temporary address	
Mobile telephone number	
e-mail address	
Occupation	
Work address	
Work telephone number	
Disability (specify if relevant)	

Sex

☐ ☐ ☐

(tick where appropriate)

3 particulars of co-Respondent

(if applicable) (Leave this section blank if it does not apply)

Full name	
Identification/passport Number	
Date of birth	
Nationality	
Home or temporary address	
Mobile telephone number	
e-mail address	
Occupation	
Work address	
Work telephone number	
Disability (state if relevant)	

Additional Information about the respondent

3.1 To the best of your knowledge does the respondent have any alcohol, mental health or drug related issues?

a. Yes

☐

No

☐

If yes, please give details

.....

.....

.....

.....

.....

.....

3.2 Are they involved in any other crimes?

a. Yes

☐

b No

☐

If yes, then please provide as much details of these crimes as possible.

.....

.....

.....

.....

.....

If you are the complainants' representative, please enter the complainant's details below

4 particulars of VICTIM (Leave this section blank if it does not apply)

Full name	
Identification/passport Number	
Date of birth	
Nationality	
Home or temporary address	
Mobile telephone number	
e-mail address	
Occupation	
Work address	
Work telephone number	
Disability (specify if relevant)	

4.1 State the capacity under which you are making this application (*tick where appropriate or specify*)

- (a) Police officer ☒
- (b) Advocate ☒
- (b) Social welfare officer ☒
- (c) Guardian of a child ☒
- (d) Relative ☒
- (e) Neighbour ☒
- (f) Medical practitioner ☒
- (g) Counsellor ☒
- (h) Probation officer ☒

(i) Non-Governmental Organization concerned with welfare of children

(j) Religious leader

(k) Community elder

(l) Any other (specify).....

4.2 What is your relationship with the respondent?

a. Spouse

b. ex – spouse

c. Family member

d. We have a close personal relationship

f. specify other

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

5. Incident Details

5.1 Date of Incident (day/month/year)

5.2 Time of Incident:

5.3 Where did the incident take place?

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

5.4 What type of abuse did the incident involve? (select any which are relevant)

a. Physical

b. Emotional

c. Sexual

d. Mental

e. Economical ☐

Specify any other.....

5.5 Was anyone injured during the incident?

a. Yes ☐

b. No ☐

5.6 If so, please provide details of the injuries, who received them and if any medical attention was obtained (*include any other relevant information*)

.....

5.7 Did anyone else witness the incident?

a. yes ☐

b. No ☐

If so, please provide details (if known).

.....

6 children affected by the application (leave blank if irrelevant)

Particulars of child(ren) affected/likely to be affected by the application

i. Child 1 name.....

a. Male/Female/Intersex(*tick where appropriate*)

b. Date of birth(day.month.year).....

c. Age.....

d. Nationality.....

e. Name the person(s) living with the child at the time of the application

.....

- f. Disability
- g. Relationship of applicant to the child.....
- h. Relationship of respondent to the child
.....
- ii. Child 2
- Name.....
- a. Male/Female/Intersex(*tick where appropriate*)
- b. Date of birth(day,month,year).....
- c. Age.....
- d. Nationality.....
- e. Name the person(s) living with the child at the time of the application
.....
- f. Disability.....
- g. Relationship of applicant to the child.....
- h. Relationship of respondent to the child.....
- iii. Child 3
- Name.....
- a. Male/Female/Intersex (*tick where appropriate*)
- b. Date of birth(day/month/year).....
- c. Age.....
- d. Disability
- e. Nationality.....
- f. Name the person(s) living with the child at the time of the application
.....
- g. Relationship of applicant to the child.....
- h. Relationship of respondent to the child.....
- 7 Previous applications of protection order: (leave blank if irrelevant)
- (give the file number of any previous applications between the parties and the location of the Court where they were filed)
- a. File number
- b. Date of filing
- c. Name of Court in which the application was filed
.....
- d. Give more details about this previous application for protection order(s)
.....
.....

.....

8 Existing Order(s) between the parties:

(give details of any existing Order between the parties, including the date the Order was made, the location of the Court that made the Order, and the Court file number)

a. State the type of protection order(s) that exists

.....

b. File number.....

c. Date it was filed.....

d. Date which the order was made.....

e. Court which made the order.....

Specify any other relevant information about these existing orders

.....

9 Existing Orders relating to any child:

(give details of any existing Order relating to any child affected by the application, including the date the Order was made, the location of the Court that made the Order, and the Court file number)

a. State the type of protection order(s) that exists

.....

b. The date the order was made.....

c. The name of Court which made the order.....

d. Name of child(ren) affected by this order

i.

ii.

iii.

iv.

Signature

Date

(Day/Month/Year)



.....

FORM PADV 2**APPLICATION FOR AN ORDER OF PROTECTION****[Rule 2 (3)]**

1. This application is filed by (name of the applicant/representative).....
2. state nature of claim
 - (a) Particulars of the applicant (victim of domestic violence)/particulars of representative
 - (b) Particulars of respondent
 - (c) State capacity under which you are making this application
 - (d) Indicate written consent of the victim of domestic violence to represent them
 - (e) Details regarding acts of domestic violence
 - (f) Persons affected by the act of domestic violence and how they are affected.
 - (g) Information regarding urgency of the application
3. Which application is based on the affidavit of.....
4. State the terms of protection order sought or other orders as this Honourable Court

Dated this day of.....

Signed by.....

Drawn and filed by

To be served upon

FORM PADV 3**APPLICATION TO BE APPOINTED A REPRESENTATIVE OF THE VICTIM****[Rule (3) (2)]**

1. This application is filed by (name of representative)
2. State the capacity under which you are making this application
3. State the particulars of the victim
4. State the particulars of the respondent
5. State the nature of domestic violence
6. State whether the victim is a child, an adult or a person of unsound mind
7. Which application is based on the affidavit of.....
8. State the orders sought on behalf of the victim

Dated this day of.....**Signed by.....****Drawn and filed by****To be served upon**

FORM PADV 4

CONSENT BY COMPLAINANT TO SEEK ORDER OF PROTECTION

[Rule 4 (a)]

I, (*name of the complainant*) of idno.....gives (*name of**the representative*), of id no..... on this (*date*)dayof.....(*year*).....authority/consent to represent me in a matter of domestic violence

that entailed physical violence sexual abuse psychological abuse economical abuse

specify any other form of violence.....

My relationship with my representative is

(*specify*).....

Signature

Date



.....

FORM PADV 5

REVOCATION OF CONSENT AND SUBSTITUTION OF A REPRESENTATIVE

[Rule 4 (b)]

[To be filled by the complainant]

1. Revocation of consent

I, (*Name of complainant*) of id number..... granted authority to..... (*name of representative*) of i.d number on (*date*) to represent me in a matter of domestic violence.

I hereby withdraw the consent and state that (*name of representative*) ceases to represent me in any domestic matter because (*state reason*)

.....

2. Substitution of representative

I grant consent to (*name of current representative*) of I.D. number..... to represent me in the matter of domestic violence as from..... (*date when the substitution starts to take effect*)

Sign

Date

.....

FORM PADV 5

A FORM TO CEASE REPRESENTING THE COMPLAINANT

[Rule 4 (b)]

(To be filled by the representative)

I, (*Name of representative*) of id number..... was granted authority to represent..... (*name of complainant*) of I.D. number on (*date*)..... in a matter of domestic violence.

I hereby state that I cease to represent the complainant in any matter of domestic violence from (*date of waiver*)reason being (*state reason; optional*)

.....

1. Substitution (*optional*)

I suggest (*name of the person you'd wish to substitute you*) of I.D. number..... to represent the complainant because

(*give reasons why you choose the person to replace you*)

.....

2. Does the person you are proposing as a representative have a personal relationship with the complainant?

a. Yes

☐

b. No

☐

If your answer in 2 above is yes, please specify

.....

.....
.....

Sign

Date

.....

FORM PADV 6

NOTICE TO RESPONDENT TO SHOW CAUSE (SUBMIT REASONS) WHY A
PROTECTION ORDER SHOULD NOT BE ISSUED

[Rule 8 (1)]

IN THE MAGISTRATE COURT OF.....

APPLICATION NO.

BETWEEN

APPLICANT.....

OF ID NO..... DATE OF BIRTH.....

AND

RESPONDENT.....

OF ID NO..... DATE OF BIRTH.....

PARTICULARS OF THE RESPONDENT - in so far as such are available

Particulars of application

On.....the applicant applied for a protection order against you, the Court considered the application but has not issued the interim protection order. The Court will decide whether to issue the interim protection order against you on the undermentioned date

You are hereby called upon on the day of..... year..... at (time).....to give reasons why a protection order should not be issued against you by the above-mentioned Court

If you so wish, the matter may be heard at an earlier date upon you giving a written notice to the applicant and the Court within 24 hours.

The Court will issue a protection order against you if you do not appear on the above-mentioned date and time if it is satisfied that this notice was duly served upon you and that you committed an act of domestic violence.



.....

Date

Registrar

FORM PADV 7**REPLY TO AN APPLICATION OF A PROTECTION ORDER****[Rule 3 (3)]**

1. This reply is filed by (name of the respondent/representative)
2. State nature of response:
 - (a) Particulars of the respondent/ representative
 - (b) Particulars of applicant if different from the application for a protection order
 - (c) State capacity under which you are making this application
 - (d) State relationship with the applicant
 - (e) Details of counter-claim if any
 - (f) Details of notice to show cause be the Court if any
 - (g) Response to the terms of protection order sought
 - (h) Any prayers to the Court

Dated this day of.....**Signed by.....****Drawn and filed by****To be served upon**

FORM PADV 8

AFFIDAVIT FOR COMPENSATION

[Rule 12 (4)]

Applicant.....Name(s)

Versus

Respondent..... Name (s)

I,of makes an oath and state as follows:

(The facts upon which the applicant rely must concisely set out in consecutively numbered paragraphs and should address any of the following:

- (a) The pain and suffering of the protected person(s) and the nature and extent of the physical or psychological injury suffered
- (b) The cost of medical treatment for such injury
- (c) Temporary or permanent effect of such injury
- (d) Any loss of earnings, current and prospective, arising from the act of violence
- (e) The amount and value of the movable or immovable property taken, transferred, destroyed or damaged
- (f) Reasonable expenses already incurred by or on behalf of either party in securing protection from the act of domestic violence
- (g) The financial position of the victim as well as that of the respondent
- (h) The relationship that exists between the parties and the reasonableness of requiring the respondent to make or contribute towards any compensation
- (i) Any other factors that the Court should consider

Sworn

FORM PADV 9**APPLICATION TO VARY OR DISCHARGE A PROTECTION ORDER****[Rule 13 (2)]**

..... The above named applicant,
makes an application to the Court at
..... from the protection order in suit no..... of
..... Dated.....for an order to review/discharge
(delete as appropriate) the protection order.

FORM PADV 10

MEMORANDUM OF APPEAL

[Rule 16 (2)]

Theabove-named appeal to the Court at
.....from the decree ofin Suit No.....of 20.....dated
the.....day of20.....and set forth the following grounds of
objection to the decreed appeal:

1.....

2.....

3.....

Dated thisday of20.....

Signed by

Drawn and filed by)

)

)

To be served upon.....

Made on the 6th October, 2020.

DAVID MARAGA,
Chief Justice and Chairman of the Rules Committee.

