

## Form 5

### Notice to be handed and explained to complainant by peace officer in case of domestic violence

[Regulation 6(4)]

SECTION 3(3)(b)(ii) OF THE DOMESTIC VIOLENCE ACT, 1998 (Act No. 116 of 1998)

#### Your rights and steps you can take to protect yourself, your children and related persons

This notice explains your rights and the steps you can take to protect yourself, your children and/or other members of the shared household. If, after reading this notice, there is anything you do not understand we will, to the best of our abilities, explain the contents to you.

1. We will give you such assistance as you may need including to—
  - (a) find a suitable shelter; and/or
  - (b) get medical treatment.
  
2. You can lay a criminal complaint with the police against the person who abused you, if the action of that person amounts to a criminal offence, and the case will be opened and investigated by the police. If you want to lay a criminal complaint, you must go to a police station in the area where you stay, study, work, operate a business or where the abuse took place.
  
3. You can also apply, on any day and at any time, for a protection order and a safety monitoring notice through the internet (go to [www.justice.gov.za](http://www.justice.gov.za)) or in person at a Magistrate's Court—
  - (a) where you stay, study or work, whether permanently or temporarily;
  - (b) where the person who abused you stays, studies or work, whether permanently or temporarily; or
  - (c) where the abuse took place.
  
4.
  - (a) If you stay at the same place as the person who abused you, you can at the same time also apply for a safety monitoring notice, which will make sure that a police official will check on your safety regularly by telephone or in person for a specified period.
  - (b) We can give you the application forms to apply for a protection order and a safety monitoring notice if you need it, or you can get these forms from the internet at [www.justice.gov.za](http://www.justice.gov.za).
  
5.
  - (a) The Court can grant an interim protection order with a date for you and the person who abused you to appear in court to consider the application.
  - (b) The interim protection order must be served on the person who abused you (hereinafter referred to as "the respondent") before it can come into operation.
  - (c) If the court does not grant an interim protection order, you and the respondent will get a notice which will stipulate a date to appear in court, where you will be required to explain why the court should grant you a final protection order.
  - (d) The court can also grant a safety monitoring notice, if applied for, which must be served on the respondent before it can come into operation.
  
6. The protection order can be served by the police or by a sheriff, but the safety monitoring notice can be served only by the police.
  
7. In your application you may request the Court to prohibit the respondent from—
  - (a) committing or attempting to commit any act of domestic violence;
  - (b) getting the help of another person to commit any act of domestic violence;

- (c) entering your workplace, place of study, home or the shared residence or any part thereof;
  - (d) preventing you or any child who normally lives in the shared residence from entering or remaining in the residence or any part thereof;
  - (e) contacting you in person or through some other person or by electronic means;
  - (f) making known or available to others any communication about you by electronic means;
  - (g) committing any other act as may be specified by the Court.
8. The person who abused you will not be given your contact information.
9. To protect you and to provide for your safety, health and wellbeing, the Court can—
- (a) order that the respondent pay rent, mortgage or other monetary relief (such as medical, grocery and education expenses and loss of income);
  - (b) order that the respondent pays temporary maintenance of any child, person with a disability or older person in your care, who the respondent has a legal duty to maintain;
  - (c) refuse the respondent contact with you or your children;
  - (d) order the respondent to not harm or threaten to harm a household pet or other animal, the welfare of which affects your well-being;
  - (e) order the seizure of any weapon in the possession or under the control of the respondent, even if it is for work purposes;
  - (f) order that a peace officer accompany you to assist you with the collection of your personal property;
  - (g) impose any other condition as is reasonably necessary.
10. (a) Whenever the court grants an interim or final protection order, the court must at the same time authorise a warrant of arrest for the respondent, which must be suspended until the order is breached.
- (b) You will get a copy of the interim protection order and the original suspended warrant of arrest.
- (c) The protection order must be served on the respondent before it comes into force, and the original suspended warrant of arrest can only be used once the order is breached.
- (d) If the respondent breaches any provision of the interim protection order, you can go to the police with the order, the warrant and an affidavit explaining how the order was breached.
- (e) The police can open a criminal case for breach of the protection order and may arrest the respondent.

**Do you have any questions? You are welcome to seek clarity regarding the process or about this notice.**

**If you go to court, the clerk of the court will also explain the process and can provide you with the application forms.**

**You can also get information and the forms on the internet at [www.saps.gov.za](http://www.saps.gov.za), [www.dsd.gov.za](http://www.dsd.gov.za) or [www.justice.gov.za](http://www.justice.gov.za).**

**You can also call this command centre number (tel: 0800 002 0007) for more information and assistance.**

**NOTE: IT IS A CRIMINAL OFFENCE IF YOU GIVE FALSE INFORMATION THAT YOU KNOW IS FALSE WHEN APPLYING FOR A PROTECTION ORDER, A DOMESTIC VIOLENCE SAFETY MONITORING NOTICE OR WHEN YOU OPEN A CRIMINAL CASE.**