

## Form 8

### Information notice to complainant who is not represented by legal practitioner

[Regulation 8]

SECTION 4(2) OF THE DOMESTIC VIOLENCE ACT, 1998 (Act No. 116 of 1998)

#### INFORMATION NOTICE BY CLERK OF THE COURT

1. This notice explains—
  - (a) the relief that is available in terms of the Domestic Violence Act, 1998; and
  - (b) the right of the complainant to lodge a criminal complaint against the respondent.
2. You will be required to sign this notice to confirm that there has been compliance with section 4(2) of the Domestic Violence Act, 1998, and regulation 8 of the Domestic Violence Regulations, 2022, made in terms of that Act, and which obliges me—
  - (a) to hand this notice to you, which must be in the official language of your choice which you understand;
  - (b) to read out or cause this notice to be read out to you if you are unable to read this notice;
  - (c) to inquire from you whether you understand the contents of this notice; and
  - (d) to explain any part of the notice which you don't understand.
3. You may—
  - 3.1 on any day and at any time, in terms of the law, apply for a protection order against domestic violence at the Magistrate's Court within the area in which—
    - (a) you permanently or temporarily reside, study, carry on business or are employed;
    - (b) the respondent (that is the person who commits an act of domestic violence) permanently or temporarily resides, studies, carries on business or is employed; or
    - (c) the act of domestic violence occurred.
  - 3.2 apply for a protection order against a person who is in a domestic relationship with you for being—
    - (a) married to you previously or currently;
    - (b) in a living together relationship, but not married;
    - (c) a parent to your child;
    - (d) your family member by blood (e.g. mother, father or sibling), affinity (e.g. step-mother or step-father) or adoption;
    - (e) engaged to be married, or in a dating or customary relationship; or
    - (f) in a close relationship.
  - 3.3 appoint a lawyer to assist you. If you cannot afford a lawyer, you can apply for legal aid or contact any non-government organisation to assist you.
4. I am able to provide you with an application form if you want to apply for such an order. It is not necessary to lay a criminal charge in order to obtain a protection order.
5. A person commits an act of domestic violence if that person—
  - (a) physically abuses you;
  - (b) sexually abuses you;
  - (c) causes you emotional, verbal or psychological abuse;
  - (d) economically abuses you;
  - (e) intimidates you;
  - (f) harasses you;
  - (g) sexually harasses you;
  - (h) abuses a person related to you;
  - (i) spiritually abuses you;
  - (j) causes damage to property;
  - (k) causes or commits abuse against an older person;
  - (l) is involved in coercive behaviour;
  - (m) is involved in controlling behaviour;
  - (n) exposes a child to domestic violence;
  - (o) enters your permanent or temporary residence without your consent, where you and that person do not share the same residence; or your workplace or place of study, without your consent, where you and that person do not share the same workplace or place of study; or
  - (p) is involved in any other behaviour of an intimidating, threatening, abusive, degrading, offensive or humiliating nature towards you,

where such conduct harms or inspires the reasonable belief that harm may be caused to you.
6. An application for a protection order against domestic violence may be made by another person on your behalf if the person who intends to apply for the protection order has a material interest in your wellbeing. However, such application must be brought with your written consent, except in circumstances where you are a person who, in the opinion of the court, is unable to give consent.
7. Any child, or person on behalf of a child, may apply to the court for a protection order.
8. The court will consider your application or the application brought on your behalf, and must—

<p>8.1 if the evidence substantiates the fact that—</p> <ul style="list-style-type: none"> <li>(a) the respondent is committing or has committed an act of domestic violence;</li> <li>(b) harm is being or may be suffered by you or a related person as a result of that conduct if a protection order is not issued immediately; and</li> <li>(c) the protection to be accorded by the interim protection order is likely not to be achieved if prior notice of the application is given to the respondent,</li> </ul> <p>issue an interim protection order against the respondent; and</p> <p>8.2 thereafter issue a temporary order which will—</p> <ul style="list-style-type: none"> <li>(a) only come into effect after it has been delivered to the respondent (the cost of which you will have to pay unless you do not have the means to pay therefor); and</li> <li>(b) be valid for a certain period of time.</li> </ul> <p>9. An interim protection order is of force and effect from the time it is issued by the court and the existence and content of the order have been served on the respondent. A copy of the application and evidence noted during the application will be served on the respondent, together with the interim protection order, and the respondent will be called upon to show cause (give reasons) on the date specified in the order why the interim protection order should not be made final. The protection afforded by an interim protection order is temporary in nature and will expire on the date of hearing.</p> <p>10. On the date of hearing, the court will hear the matter and may issue a permanent protection order which will be valid for an indefinite period, or such period as the court may determine on good cause shown.</p> <p>11. The court may, by means of an interim or final protection order, prohibit the respondent from—</p> <ul style="list-style-type: none"> <li>(a) committing or attempting to commit any act of domestic violence;</li> <li>(b) enlisting the help of another person to commit any such act;</li> <li>(c) entering a residence shared by the complainant and the respondent: Provided that the court may impose this prohibition only if it appears to be in the best interests of the complainant;</li> <li>(d) entering a specified part of such a shared residence;</li> <li>(e) entering the complainant's residence;</li> <li>(f) entering the complainant's workplace or place of studies;</li> <li>(g) preventing the complainant who ordinarily lives or lived in a shared residence as contemplated in paragraph (c) above, from entering or remaining in the shared residence or a specified part of the shared residence;</li> <li>(h) disclosing any electronic communication or making available any communication, as may be specified in the protection order; or</li> <li>(i) committing any other act as specified in the protection order.</li> </ul> <p>12. The court may also impose any additional conditions on the respondent which it deems reasonably necessary to protect and provide for the safety, health or wellbeing of the complainant.</p> <p>13. In terms of section 7(5) of the Domestic Violence Act, 1998, the physical, home, study and work address of the complainant or related person to whom the protection order relates must be omitted from the protection order, unless the nature of the terms of the protection order necessitates the inclusion of such particulars, and the court may issue any directions to ensure compliance with this provision of the Act.</p> <p>14. Whenever a court issues an interim or final protection order, a warrant for the arrest of the respondent will be issued, but the execution of the warrant will be suspended subject to compliance with any prohibition, condition, obligation or order which the court may impose to prohibit the acts of domestic violence on the complainant. If the respondent contravenes any specified prohibition, condition, obligation or order contained in a protection order, the complainant may hand the warrant of arrest, together with an affidavit, wherein it must be stated that the respondent has contravened the protection order, to a member of the South African Police Service who must—</p> <ul style="list-style-type: none"> <li>(a) if there is a possibility that the complainant is suffering or may suffer harm as a result of the alleged breach of the protection order by the respondent, immediately arrest the respondent; or</li> <li>(b) if there are insufficient grounds for arresting the respondent, immediately hand a written notice to the respondent to appear before a court,</li> </ul> <p>to answer to a criminal charge of contravening a protection order.</p> <p>15.(a) You can at the same time when applying for a protection order or thereafter also apply for a safety monitoring notice, if you stay at the same place with the respondent. This application will require that an order be made for a police official to check on your safety regularly by telephone and in person for a specified period.</p> <p>(b) I can give you the application forms to apply for a protection order and a safety monitoring notice if you want, or you can get these forms from the internet (go to <a href="http://www.justice.gov.za">www.justice.gov.za</a>).</p> <p>16. In addition to the application for a protection order, you also have the right to lodge a criminal complaint against the respondent, at a police station of the area where you stay, study, work, run a business or where the abuse took place, if the act of domestic violence also amounts to a criminal offence. It is, however, not necessary to lay a criminal charge in order to obtain a protection order.</p> <p><b>17. WARNING:</b></p> <p>17.1 It is a criminal offence to make a false statement in an—</p> <ul style="list-style-type: none"> <li>(a) application for a protection order;</li> <li>(b) application for safety monitoring notice; and</li> <li>(c) affidavit to the effect that the respondent has contravened a protection order.</li> </ul>
--

17.2 The court may make an order as to costs against a person if it is satisfied that the person in question has acted frivolously, vexatiously or unreasonably.

**(\*Delete whichever is not applicable)**

Application Number: ...../20.....

Date: .....

Name and surname of clerk of the court: .....

Name and surname of \*complainant/\*person who applies for a protection order on behalf of the complainant: .....

.....  
\*Signature/\*thumb print /\*mark of \*complainant/\*person who applies for a protection order on behalf of the complainant

**CONFIRMATION OF RECEIPT OF FORM 8**

(To place on court file if the complainant or person who applies for a protection order on behalf of the complainant proceeds with the application)

**(\*Delete whichever is not applicable)**

Application Number: ...../20.....

Date: .....

Name and surname of \*complainant/person who applies for a protection order on behalf of the complainant: .....

I confirm that—

- (a) the information notice was given to me;
- (b) it was in the official language of my choice;
- (c) it was \*read out to me/ I read it myself;
- (d) I was asked whether I understand the contents of the notice; and
- (e) any part of the notice which I did not understand, was explained to me.

.....  
\*Signature/\*thumb print /\*mark of \*complainant/\*person who applies for a protection order on behalf of the complainant

Name and surname of clerk of the court: .....

.....  
Signature

Stamp of clerk  
of the court