

# FIJI ISLANDS GOVERNMENT GAZETTE SUPPLEMENT

No. 43

THURSDAY, 24th DECEMBER

2009

[LEGAL NOTICE NO. 102]

## DOMESTIC VIOLENCE DECREE 2009

(Decree No. 33 of 2009)

### Domestic Violence (Prescribed Forms) Rules 2009

FOLLOWING consultations with the Chief Magistrate and in exercise of the powers conferred upon me by Section 80 of the Domestic Violence Decree 2009, I make the following Rules—

*Short Title and Commencement*

1.—(1) These Rules may be cited as the Domestic Violence (Prescribed Forms) Rules 2009.

(2) These Rules commence on the date of commencement of the Domestic Violence Decree 2009.

*Interpretation*

2. In these Rules unless the context otherwise provides—

“document” means an application for a restraining order, affidavit or notice.

“registrar” means the registrar or deputy registrar of the Criminal Division.

“registry” means the criminal registry and includes an officer of the Criminal Division;

*Application for restraining order*

3.—(1) An application for an order of domestic violence restraining order must be in accordance with Form No. 1.

(2) The Court shall issue an interim domestic violence restraining order against the respondent in accordance with Form No. 2

(3) The Court shall issue a domestic violence restraining order against the respondent in accordance with Form No. 3.

*Complaints Notice*

4. The Complaints Notice must be in accordance with Form No. 4.

*Legal Practitioners Information about service*

5. Any legal practitioner who receives instructions to act for a person referred to in the Decree, must provide that person with the information provided under Form No. 6.

*Requirements with respect to documents*

6.—(1) For the purposes of this rule, “printed” includes—

(a) typewritten;

(b) machine printed; and

(c) reproduced by mechanical, electronic, photographic or other means.

(2) A document that is to be registered or filed must comply with sub rule (3) unless—

- (a) the nature of the document renders compliance impracticable;
- (b) the document is in accordance with a form that —
  - (i) is prescribed in these Rules; and
  - (ii) provides for the document to be set out in a manner that does not comply with subrule (3);
- (c) under these Rules, the document must comply with a different requirement;

(3) A document must—

- (a) be durable, white opaque paper of good quality, of the size known as ISO A4;
- (b) be legible and without erasures, blotting out or material disfigurement;
- (c) be—
  - (i) mechanically or electronically printed; or
  - (ii) if the document is a printed form made available by the court, completed by being hand – printed in ink;
- (d) have a margin at the left hand side of each page of not less than 30 millimetres;
- (e) have a space of not less than 6 millimetres between each line and the next;
- (f) be set out on only 1 side of the paper; and
- (g) have each page numbered.

*Filing of documents*

7.—(1) An application filed in, or in connection with, proceedings if—

- (a) it is delivered to the filing registry; or
- (b) with the leave of the court, it is delivered to a registry that is appropriate in the circumstances,

and the document is accepted for filing by the court.

(2) The registrar shall cause the date of filing to be marked on every document that is filed.

(3) Where a document has been filed, each copy of the document for service shall bear the seal of the court in which the document was filed.

(4) A reference in these Rules to the filing of a document or the taking of a step in proceedings by a person includes a reference to the filing of the document or the taking of the step on behalf of the person.

*Refusal to accept form for filing*

8.—(1) A registrar may refuse to accept a document for filing, if—

- (a) it is not in proper form in accordance with these Rules;
- (b) it is not executed in the way required by these Rules;

- (c) the document, on its face, appears to the registrar to be an abuse of process, frivolous, scandalous or vexatious, or
- (d) the document is filed in connection with pending proceedings in another court or another registry, and the registry is not the appropriate registry.

(2) If a registrar refuses to accept a document for filing, the person who sought to file the document may apply for the court for review of the registrar's decision.

(3) The registrar must accept the application for review of a decision not to accept a document for filing.

(4) An application under subrule (3) must be made *ex parte*, in the first instance.

*Service on the other party*

9. A document that is filed must be served on each other party to the proceedings as soon as practicable after filing.

*Forms*

10.—(1) In these Rules, a reference to a form by number is a reference to the form so numbered in the Schedule.

(2) Strict compliance with the forms in the Schedule is not required and substantial compliance is sufficient.

(3) Where a person referred to in a form in the Schedule is not represented by a lawyer, a reference in the form to the lawyer for the person shall be read as a reference to the person.

(4) A document that is prepared in accordance with the forms in the Schedule must be completed in accordance with any directions specified in the form, but the directions may be omitted from the document.

(5) The Chief Justice may authorise the use of appropriate computer software for the purpose of reproducing a form in the Schedule.

(6) A form that is prepared—

- (a) in accordance with a form in the Schedule; and
- (b) with the use of authorised computer software,

is taken to be completed in accordance with the form in the Schedule.

(7) Unless the contrary intention appears, a form pursuant to these Rules may be signed or given by a party or by the solicitor for the party.

(8) Where the lawyer for a party to proceedings is required or permitted to sign a form it shall be sufficient for that purpose if it is signed or given—

- (a) by a partner or agent of, or lawyer employed by, that lawyer;
- (b) where the lawyer for the party is employed in the Legal Aid Commission, any other lawyer employed in or by that Commission.

*Filing a document by facsimile transmission*

- 11.—(1) Any application to be filed may be lodged by facsimile transmission if—
- (a) the matter is urgent; and
  - (b) it is not practicable to lodge the document in the registry in any other way.

(2) A document to be filed must not be lodged by facsimile transmission in any other circumstances without the leave of the court.

(3) Unless the court otherwise directs, if a document is lodged by facsimile transmission it must be accompanied by a letter to the registrar signed by the unrepresented party or the party's legal representative, explaining—

- (a) the nature and immediacy of the harm that may result if the document is not lodged by facsimile transmission; and
- (b) any other circumstances that justify lodging the document by facsimile transmission instead of lodging it in the registry.

(4) If any form is lodged by facsimile transmission, the party filing the document must lodge the original document in the registry within 7 days after it was sent by facsimile transmission.

*Form of affidavit*

12.—(1) Unless the court otherwise orders, any evidence of service to be given must be given by affidavit.

- (2) An affidavit of service must be in accordance with Form No. 5.

Made this 1st day of December 2009.

A. H. GATES  
Chief Justice

**SCHEDULE**

1. The forms to be used under the Decree are prescribed in the Schedule to these Rules.

**SCHEDULE**

Form No. 1

**APPLICATION FOR DOMESTIC VIOLENCE RESTRAINING ORDER**  
*(Section 19)*

IN THE MAGISTRATES' COURT/FAMILY DIVISION  
OF THE MAGISTRATES' COURT/FAMILY  
DIVISION OF THE HIGH COURT/JUVENILE  
COURT/HIGH COURT\*  
AT .....

Application No. ....

BETWEEN: .....  
*(Applicant's full name, address and occupation)*

AND: .....  
*(Respondent's full name, address and occupation)*

I, .....  
*(Applicant's full name, address and occupation)*

apply on notice/without notice\*

for a Domestic Violence Restraining Order ("DVRO") against:

.....  
*(Respondent's full name, address and occupation)*

and against:

.....  
*(Full name, address and occupation of any associates of the Respondent)*

for the benefit of:

.....  
*(Full name, address and occupation of persons for whose protection the DVRO is being sought, that is "the protected person or persons")*

**SECTION A - DETAILS OF THE APPLICANT**

This section need only be filled out if a person other than the victim or aggrieved person, is making the application.

**A. Police Officer:**

Full Name: .....

Rank: .....

Station: .....

Registered Number: .....

**B. Any Other Authorised Person Under The Decree**

Full Name: .....

Address: .....

Occupation: .....

*(If you do not wish for the address to be disclosed to the Respondent, then please write that information on a separate piece of paper and give it to the Court when the application for DVRO is lodged)*

**SECTION B - DETAILS OF THE PROTECTED PERSON OR PERSONS**

Full Name: .....

Gender: .....

Date of Birth: .....

*Current Address:* .....

*Current Employment and address of employer:*

*Phone Numbers:*

*Home:* .....

*Work:* .....

*Mobile:* .....

*Other:* .....

*(If the Protected person does not wish for the address and other information in italics above to be disclosed to the Respondent, then this information should be written on a separate piece of paper and given to the Court when the application for DVRO is lodged)*

Full Name, Gender and Date of Birth of other persons for whose protection the DVRO is being sought:

**SECTION C - DETAILS OF THE RESPONDENT**

Full Name: .....

Gender: .....

Date of Birth: .....

Current Address: .....

Current Employment and address of employer: .....

Phone Numbers:

Home: .....

Work: .....

Mobile: .....

Other: .....

Vehicle Registration and details: .....

Name and location of any place where the respondent may go regularly: .....

**SECTION D - DETAILS OF ANY ASSOCIATES OF THE RESPONDENT**

Name: .....

Gender: .....

Date of Birth: .....

Current Address: .....

Current Employment and address of employer: .....

Phone Numbers:

Home: .....

Work: .....

Mobile: .....

Other: .....

Vehicle Registration and details: .....

Name and location of any place where he or she may go regularly: .....

**SECTION E - RELATIONSHIP OF THE PROTECTED PERSON(S) TO THE RESPONDENT**

What is the relationship of the person or persons sought to be protected by a DVRO to the Respondent?

- (i) Spouse: 
  - married:
  - married but separated:
  - divorced:
  - de facto relationship:
- (ii) Other family member:   
Please specify relationship:
- (iii) Boyfriend or girlfriend:
- (iv) Person residing in same household or residence:
- (v) Person who is wholly or partly dependent on paid or unpaid care or a person who provides such

**SECTION E - BASIS OF APPLICATION**

Details of most recent incident of domestic violence (include dates if possible):

.....

.....

.....

.....

.....

Details of history of domestic violence (include dates if possible):

.....

.....

.....

.....

.....

Why do you believe that domestic violence is likely to occur again or a threat is likely to be carried out?

.....

.....

.....

.....

.....



**SECTION F – CONDITIONS OF THE DVRO****Standard Non-molestation Conditions**

*Under section 27 of the Decree, the following standard non-molestation conditions apply to every DVRO:*

*The Respondent must not:*

- (a) physically assault or sexually abuse the protected person;
- (b) threaten to physically assault or sexually abuse the protection person;
- (c) damage or threaten to damage any property of the protected person;
- (d) threaten, intimidate, or harass the protected person;
- (e) behave in an abusive, provocative or offensive manner towards the protected person;
- (f) encourage any person to engage in behaviour against a protected person, where the behaviour if engaged in by the respondent would be prohibited by the order.

*Under section 28 of the Decree, if a DVRO is made for the safety and wellbeing of a person and that person has a child or children in their care, then, unless otherwise ordered by the Court, the standard non-molestation conditions apply for the protection of that child or those children.*

**Additional Conditions**

I also apply for the following additional conditions (please tick as appropriate):

1.  NON-CONTACT

*Under section 29, the Court when making a DVRO for safety and wellbeing of a person (protected person), may include non-contact provisions, as a result of which the Respondent must not:*

- (a) watch, loiter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution or any other place that the protected person visits often; or
- (b) follow the protected person about or stop or accost the protected person in any place; or
- (c) enter or remain on any land or building occupied by the protected person; or
- (d) enter any land or building or remain there when the protected person is also on the land or in the building;
- (e) make any other contact with the protected person (whether by telephone, correspondence or otherwise) except such contact that is permitted by the Court and such contact that is reasonably necessary in an emergency.

2.  PROTECTION OF SPOUSE

*Under section 30, the Court when making a DVRO for safety and wellbeing of a person (protected person), may direct that DVRO also apply for the benefit, of a person, not being the Respondent, who is the spouse of the protected person.*

## 3. CONDITIONS FOR CHILDREN

*Under section 31, the Court when making a DVRO for safety and wellbeing of a person (protected person), may include provisions for the safety and wellbeing of a child or children, including matters in relation to:*

- (a) where the child should live;*
- (b) who should care for the child;*
- (c) a child being delivered to the person who should care for the child;*
- (d) arrangements for contact in relation to the child or*
- (e) other issues relating to the safety and wellbeing of the child.*

4.  USE OF POSSESSIONS

*Under section 32, the Court when making a DVRO for safety and wellbeing of a person (protected person), may make provision for the use of personal property, including provisions that the Respondent:*

- (a) must deliver specified personal property to the protected person or to another person or location specified in the order;*
- (b) must allow the protected person, or another person on their behalf, to collect specified personal property from the respondent or from a specified location;*
- (c) must allow the protected person, or another person of their behalf, access to premises for the purpose of collecting specified personal property;*
- (d) must leave specified personal property in the home, or at another specified location, for use by the protected person;*
- (e) must not remove or attempt to remove specified personal property from the protected person;*
- (f) must comply with directions by the court regarding arrangements for transfer of specified personal property.*

*The protected person must make specified personal property available for use the respondent and comply with directions by the court regarding arrangements for transfer of specified personal property*

5.  WEAPONS

*Under section 33, the Court when making a DVRO for safety and wellbeing of a person (protected person), may make the following provision in relation to weapons:*

- (a) that the respondent must not have any weapons or particular weapons specified by the court in their possession, custody or control;*
- (b) that the respondent must not seek to acquire any weapons or particular specified by the court;*
- (c) that the respondent must surrender all weapons and weapons licences or those specified by the court to the police within a specified time;*
- (d) that the respondent must surrender all or any weapons and weapons licences at any time on demand by a police officer;*
- (e) that all weapons licences or those specified by the court held by the respondent is suspended or cancelled and*
- (f) that the respondent is disqualified from holding or seeking to hold any weapons licence or a particular weapons licence specified by the court.*

6.  URGENT MONETARY RELIEF

*Under section 34, the Court when making a DVRO for safety and wellbeing of a person (protected person), may order that the respondent pay such monetary relief to or in respect of, a person protected by the DVRO.*

7.  OCCUPATION/TENANCY ORDER

*Under section 35 and 36, the Court when making a DVRO for safety and wellbeing of a person (protected person), may make an order that the protected person has the right to occupy a home and that access by the Respondent to the home be restricted, or the court may make an order that vests in the protected person the tenancy of which the Respondent is the sole tenant or is a joint tenant with the protected person.*

**SECTION G – COURT PROCEDURE**

Does the protected person(s) request that a police officer represent him or her at their court appearance?

YES/NO\*

**SECTION H - DECLARATION**

*(The Applicant, except if a police officer, must sign this application in the presence of a Justice of the Peace, Commissioner for Oaths, Barrister or Solicitor or a Police Officer above the rank of the inspector.)*

I, the applicant in this application, do solemnly and sincerely declare that the information set out in this application is true and correct to the best of my knowledge and belief.

AND I wish to apply for a DVRO against the Respondent named in this application.

AND I make this solemn declaration believing the same to be true and by virtue of the Statutory Declarations Act.

Declared at ..... this ]  
..... day of ..... 2... before ]  
me and I certify that the declaration ]  
was read over in the ..... ]  
language to the declarant who ]  
appeared fully to understand the ]  
meaning thereof: ..... ]  
*(signature of the Applicant)*

.....  
*(Witness's signature, name and nature of office held)*

\* delete as appropriate

**INTERIM DOMESTIC VIOLENCE RESTRAINING ORDER**  
(Section 22)

IN THE MAGISTRATES' COURT/FAMILY DIVISION  
OF THE MAGISTRATES' COURT/FAMILY  
DIVISION OF THE HIGH COURT/JUVENILE  
COURT/HIGH COURT\*  
AT .....

Application No. ....

BETWEEN: .....  
*(Applicant's full name, address and occupation)*

AND: .....  
*(Respondent's full name, address and occupation)*

Upon application for a domestic violence restraining order, the Court makes an interim Domestic  
Violence Restraining Order against:

.....  
*(Respondent's full name, address and occupation)*

\*The Court also directs that the Order applies against the following persons:

.....  
*(Full name, address and occupation of any associates of the Respondent)*

This Order protects the following persons:

.....  
*(Full name, address and occupation of persons for whose protection the DVRO is being sought,  
that is "the protected person or persons")*

**CONDITIONS OF THE ORDER:**

**Standard Conditions**

In accordance with section 27 of the Decree, the following standard non-molestation conditions apply to this Order:

The Respondent must not:

- (a) physically assault or sexually abuse the protected person;
- (b) threaten to physically assault or sexually abuse the protected person;
- (c) damage or threaten to damage any property of the protected person;
- (d) threaten, intimidate, or harass the protected person;
- (e) behave in an abusive, provocative or offensive manner towards the protected person;
- (f) encourage any person to engage in behaviour against a protected person, where the behaviour if engaged in by the respondent would be prohibited by the order.

In accordance with section 28 of the Decree, the above conditions apply to any child or children in the care of the protected person.

**Additional Conditions**

The Court also imposes the following additional Conditions:

**NEXT HEARING DATE:**

The Court directs that the application has been set down for hearing/mention\* in .....  
(court) on at ..... (place) on .....day, the ..... day of ....., 2...., at ..... o'clock  
in the ..... noon.

And that the personal attendance of the Respondent, the Applicant and the Protected Person is  
required.

**SERVICE:**

The Court makes the following directions for the service of this Order:

**FURTHER DIRECTIONS:**

The Court makes the following further directions for any matters relating to this application,  
including filing of documents.

ENTERED AND SEALED this ..... day of ..... 2.....

BY THE COURT

REGISTRAR

\* delete as appropriate

Form No. 3

**DOMESTIC VIOLENCE RESTRAINING ORDER**  
*(Section 22)*

IN THE MAGISTRATES' COURT/FAMILY DIVISION ..... Application No. ....  
OF THE MAGISTRATES' COURT/FAMILY .....  
DIVISION OF THE HIGH COURT/JUVENILE .....  
COURT/HIGH COURT\* .....  
AT .....

BETWEEN: .....  
*(Applicant's full name, address and occupation)*

AND: .....  
*(Respondent's full name, address and occupation)*

Upon application for a domestic violence restraining order, the Court makes a Domestic Violence Restraining Order against:

.....  
*(Respondent's full name, address and occupation)*

\*The Court also directs that the Order applies against the following persons:

.....  
*(Full name, address and occupation of any associates of the Respondent)*

This Order protects the following persons:

.....  
*(Full name, address and occupation of persons for whose protection the DVRO is being sought, that is "the protected person or persons")*

**CONDITIONS OF THE ORDER:**

**Standard Conditions**

In accordance with section 27 of the Decree, the following standard non-molestation conditions apply to this Order:

The Respondent must not:

- (g) physically assault or sexually abuse the protected person;
- (h) threaten to physically assault or sexually abuse the protected person;
- (i) damage or threaten to damage any property of the protected person;
- (j) threaten, intimidate, or harass the protected person;
- (k) behave in an abusive, provocative or offensive manner towards the protected person;
- (l) encourage any person to engage in behaviour against a protected person, where the behaviour if engaged in by the respondent would be prohibited by the order.

In accordance with section 28 of the Decree, the above conditions apply to any child or children in the care of the protected person.

**Additional Conditions**

The Court also imposes the following additional Conditions:



**FURTHER ORDERS:**

The Court makes the following additional orders:

**SERVICE:**

The Court makes the following directions for the service of this Order:

ENTERED AND SEALED this ..... day of ..... 2.....

BY THE COURT

REGISTRAR

\* delete as appropriate

**COMPLAINTS NOTICE**  
(Section 14)

**Instructions to Complainants**

*Under section 14 of the Domestic Violence Decree 2009, a police officer must make an application for a domestic violence restraining order ("DVRO") for the protection of a person who is or may become a victim of domestic violence in the following cases:*

- (a) *where a person is charged with a domestic violence offence; or*
- (b) *where the police officer believes or suspects that a domestic violence offence has recently been committed, is being committed, is imminent or is likely to be committed, and the victims safety or wellbeing is at risk.*

*However, this obligation **does not apply** if the police officer is aware that an application for a DVRO has already been commenced; or if in the special circumstances of the case, a decision has been made by the police officer that there are good reasons why an application should not be made.*

*Under this section, if the police officer decides not to make an application, then he must make a written record of the decision and the reasons for the decision, and immediately provide a copy of this written record, together with this Complaints Notice attached to each person for whose protection a DVRO would otherwise have been sought.*

*By this Complaints Notice, you may make a complaint about the delay by a police officer in applying for a DVRO or a decision by a police officer not to apply for a DVRO.*

**TO:**

- (a) **THE COMMISSIONER OF POLICE**
- (b) **THE POLICE COMPLAINTS DIVISION**
- (c) **PRESIDING JUDICIAL OFFICER HAVING JURISDICTION**
- (d) **THE CHIEF REGISTRAR**

**Complainant's Details:**

Name of Complainant: .....

Date of Birth: .....

Gender: .....

Address: .....

Telephone Number: .....

**Details of The Police Officer Against Whom Complaint Made:**

Full Name: .....

Rank: .....

Station: .....

Registered Number: .....

**Nature and Details of the Complaint:** *(include details of when an application for a DVRO was made, and the reasons given by the police officer for not applying for a DVRO)*

I hereby request that appropriate investigations and action, as authorised by law, be taken against the afore-mentioned police officer.

**Declaration**

I, ....., do solemnly and sincerely declare that the information set out in this notice is true and correct to the best of my knowledge and belief.

AND I make this solemn declaration believing the same to be true and by virtue of the Statutory Declarations Act.

Declared at ..... this ]  
..... day of .....2... before ]  
me and I certify that the declaration ]  
was read over in the ..... ]  
language to the declarant who ]  
appeared fully to understand the ] .....  
meaning thereof: ] *(signature of the Applicant)*

.....  
*(Witness's signature, name and nature of office held)*

Form No. 5

**AFFIDAVIT OF SERVICE**

IN THE MAGISTRATES' COURT/FAMILY DIVISION  
OF THE MAGISTRATES' COURT/FAMILY  
DIVISION OF THE HIGH COURT/JUVENILE  
COURT/HIGH COURT\*  
AT .....

Application No. ....

BETWEEN: .....  
*(Applicant's full name, address and occupation)*

AND: .....  
*(Respondent's full name, address and occupation)*

I, ....., of ..... do swear/affirm\* that on the ..... day of ....., 2....,  
I served ..... (name) with a copy of ..... (name of  
document) annexed to this affidavit and marked "A" by delivering the said documents to the  
..... (name) personally at ..... (place).

Sworn before me at ..... ]  
this ..... day of ..... 2.... ] .....  
*(signature of the Applicant)*

.....  
*(Witness's signature, name and nature of  
office held)*

**LEGAL PRACTITIONERS TO PROVIDE INFORMATION ABOUT SERVICES**  
(Section 16)

**What is a Domestic Violence Restraining Order?**

A court may make a domestic violence restraining order for the safety and wellbeing of a person if satisfied that the person is, or has been, in a family or domestic relationship with the respondent, and

- (a) the respondent has committed, is committing, or is likely to commit domestic violence against that person or against another person relevant to the application, and
- (b) the making of the order is necessary for the safety and wellbeing of the person or another person relevant to the application, or both.

**What is Contained in a Domestic Violence Restraining Order?**

*Standard Non-molestation Conditions*

The following standard non-molestation conditions apply to every Domestic Violence Restraining Order:

The Respondent must not:

- (a) physically assault or sexually abuse the protected person;
- (b) threaten to physically assault or sexually abuse the protected person;
- (c) damage or threaten to damage any property of the protected person;
- (d) threaten, intimidate, or harass the protected person;
- (e) behave in an abusive, provocative or offensive manner towards the protected person;
- (f) encourage any person to engage in behaviour against a protected person, where the behaviour if engaged in by the respondent would be prohibited by the order.

Under section 28 of the Decree, if a DVRO is made for the safety and wellbeing of a person and that person has a child or children in their care, then, unless otherwise ordered by the Court, the standard non-molestation conditions apply for the protection of that child or those children.

**What Other Orders Can Be Applied For**

• **NON-CONTACT**

Under section 29, the Court when making a DVRO for safety and wellbeing of a person (protected person), may include non-contact provisions, as a result of which the Respondent must not:

- (a) watch, loiter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution or any other place that the protected person visits often; or
- (b) follow the protected person about or stop or accost the protected person in any place; or
- (c) enter or remain on any land or building occupied by the protected person; or
- (d) enter any land or building or remain there when the protected person is also on the land or in the building;
- (e) make any other contact with the protected person (whether by telephone, correspondence or otherwise) except such contact that is permitted by the Court and such contact that is reasonably necessary in an emergency.

- (e) that all weapons licences or those specified by the court held by the respondent be suspended or cancelled and
- (f) that the respondent be disqualified from holding or seeking to hold any weapons licence or a particular weapons licence specified by the court.

- **URGENT MONETARY RELIEF**

Under section 34, the Court when making a DVRO for safety and wellbeing of a person (protected person), may order that the respondent pay such monetary relief to or in respect of, a person protected by the DVRO.

- **OCCUPATION/TENANCY ORDER**

Under section 35 and 36, the Court when making a DVRO for safety and wellbeing of a person (protected person), may make an order that the protected person has the right to occupy a home and that access by the Respondent to the home be restricted, or the court may make an order that vests in the protected person the tenancy of which the Respondent is the sole tenant or is a joint tenant with the protected person.

### **What are Interim and Final Orders**

#### **Interim Order**

An interim order continues until confirmed by a court as a final order or earlier varied, suspended or discharged by a court.

#### **Final Order**

A final order continues until varied, suspended or discharged by a court.

### **Who Can Apply For A Domestic Violence Restraining Order?**

(a) an adult, by

- (i) the person themselves, or
- (ii) another person who normally cares for, or is currently caring for, the person

(b) a child, by

- (i) a parent or guardian of the child,
- (ii) an adult with whom the child resides (either usually or on a temporary basis),
- (iii) a child themselves where the child has attained the age of 16 years and is a married person, and
- (iv) a child themselves where the child has attained the age of 16 years and the court has granted leave to the child to make the application on their own behalf.

(c) an adult or a child, by:

- (i) a police officer, where a person has been charged with a domestic violence offence or the police officer suspects or believes that a domestic violence offence has recently been committed, is being committed, is imminent, or is likely to be committed, and the victim's safety or wellbeing is at risk; or

- (ii) the Director of Social Welfare or a Welfare Officer appointed under Section 37(2) of the Juveniles Act [Cap. 56]; or
- (iii) the Public Trustee when undertaking management and care of the property of a person of unsound mind under section 17(1) of the Public Trustee Act [Cap. 64] or another person holding an appointment in respect of the affairs of a person of unsound mind under section 23 of that Act; or
- (iv) the Public Trustee when holding an appointment under section 17(2) of the Public Trustee Act [Cap. 64] to undertake the management and care of the property of an incapable person; or
- (v) any other person where it appears to the Court to be necessary for the safety or wellbeing of the victim.

**What are the Procedures for Application of a Domestic Violence Restraining Order?**

- (i) An application under the decree may be made in person or by telephone.
- (ii) An application, or part of an application, may be heard by telephone where this is technically possible, and—
  - (a) the presiding judicial officer gives a direction that a hearing by telephone may take place;
  - (b) during the hearing the presiding judicial officer is sitting in a Court room or office in a Court House;
  - (c) the telephone used by a person appearing or giving evidence by telephone is in a Court room or a Court House.

**How Long Will An Application Take To Be Heard?**

Each Court exercising jurisdiction under the Decree must make arrangements for applications under the Decree to be heard as soon as is reasonably possible after filing and in any event within 7 working days of the application being filed.

**What Happens If I Breach The Domestic Violence Restraining Order?**

If a restraining order has been issued against you and you are found by the Courts to be in breach of any conditions of the DVRO you may:

- (i) be prosecuted for being in breach of a DVRO
- (ii) be convicted of contempt of court

become the subject of more stringent conditions of the restraining order.