



THE DOMESTIC PROTECTION RULES 1983

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 7th day of March 1983

Present:

THE RIGHT HON. D. MACINTYRE PRESIDING IN COUNCIL

PURSUANT to section 39 (1) of the Domestic Protection Act 1982 and to section 122 of the District Courts Act 1947 and, in relation to rule 46 of the following rules, to section 188 of the Family Proceedings Act 1980, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

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RULES

PART I

PRELIMINARY PROVISIONS

1. Title and commencement—(1) These rules may be cited as the Domestic Protection Rules 1983.

(2) These rules shall come into force on the 1st day of April 1983.

2. Application of rules—(1) Subject to this rule and unless the context otherwise requires, these rules shall apply to all proceedings under the Domestic Protection Act 1982.

(2) These rules do not apply to—

(a) Criminal proceedings; or

(b) Proceedings which are transferred to the High Court under section 14 of the Family Courts Act 1980.

(3) If in any proceedings any question arises as to the application of any provision of these rules, the Court may, either on the application of any party or of its own motion, determine the question and give such directions as it thinks fit.

Cf. S.R. 1981/261, r. 2

3. Interpretation—(1) In these rules, unless the context otherwise requires,—

“The Act” means the Domestic Protection Act 1982:

“Address for service” means the address of a place in New Zealand where any document may be left for the party giving the address, which address shall not be that of a Post Office box, a document exchange, or a rural delivery:

“Court”—

(a) Means—

(i) A Family Court; or

(ii) A District Court; and

(b) In relation to any act, jurisdiction, or discretion which may under these rules, or under the District Courts Rules as applied by these rules, be done or exercised by the Registrar, includes the Registrar:

“District Courts Rules” means the District Courts Rules 1948*:

“Judge” means—

- (a) A Family Court Judge; or
- (b) A District Court Judge:

“Nearest”, in relation to any Court, means the Court whose place of sitting is nearest by the most practicable route:

“Registrar” means the Registrar of a Court; and includes any Deputy Registrar.

(2) In these rules, reference to a numbered form is,—

- (a) Except in the case of form F.P.7, a reference to the form so numbered in the First Schedule to these rules; and
- (b) In the case of form F.P.7, a reference to the form so numbered in the First Schedule to the Family Proceedings Rules 1981†.

(3) Expressions not defined in these rules but defined in the Act have, in these rules, the meanings so defined.

Cf. S.R. 1981/261, r. 3

4. Construction—These rules shall be so construed as to secure the just, speedy, simple, and inexpensive determination of any proceedings.

Cf. S.R. 1981/261, r. 4

5. Procedure and practice—(1) No practice that is inconsistent with these rules shall prevail in any Court.

(2) Subject to subclauses (3) to (5) of this rule, if any case arises for which no form of procedure is prescribed by the Act or these rules, the District Courts Rules shall apply, so far as they are applicable and with any necessary modifications, and the general practice of District Courts shall apply.

(3) Notwithstanding subclause (2) of this rule, a Court shall dispose of any case to which that subclause applies in such manner and subject to such modifications as the Court thinks best calculated to promote the ends of justice.

(4) Those provisions of the District Courts Rules which are set out in the Second Schedule to these rules shall not apply to proceedings under the Act.

(5) Where a Court is satisfied, in the circumstances of any particular case, that—

- (a) The provisions of the Act, of these rules, or of the District Courts Rules, or the practice of the Court, do not make adequate provision for procedure or practice; or
- (b) Difficulties arise or doubts exist as to the appropriate procedure or practice,—

the Court may give such directions with respect to the procedure and practice to be followed in the case as the Court considers necessary to promote the ends of justice.

*S.R. 1948/197 (Reprinted with Amendments Nos. 1–17: S.R. 1981/259)

†S.R. 1981/261

(6) Every Judge may from time to time give such directions, not inconsistent with any enactment or these rules, as he thinks proper for regulating the business of the Court over which he presides.

Cf. S.R. 1981/261, r. 5

6. Non-compliance with rules—Non-compliance with any of these rules shall not render void the proceedings in which the non-compliance has occurred, but the proceedings may, of the Court's own motion or on application made with reference to the non-compliance, be set aside either wholly or in part or amended or otherwise dealt with in such manner or on such terms as the Court thinks fit.

Cf. S.R. 1981/261, r. 6

PART II

RECORDS

7. Records—(1) The Registrar of every District Court shall enter in the Family Proceedings Records kept in accordance with rule 7 (1) (a) of the Family Proceedings Rules 1981* a record of each application made under the Act, and of the decision on the application.

(2) A minute of the decision on each application shall be endorsed on that application, and shall be signed and dated by the Judge or Registrar making the order.

Cf. S.R. 1981/261, r. 7

8. Searches—(1) Subject to subclause (2) of this rule, the following persons may search the records of and the documents filed in the District Court in relation to any proceedings under the Act, namely:

(a) A party to the proceedings, or his solicitor or an agent of his solicitor:

(b) Any other person who satisfies the Registrar that he has a proper interest in the proceedings.

(2) If the Registrar considers that it would contravene a direction given by a Judge to permit a person referred to in subclause (1) (a) or (b) of this rule to inspect any particular document, or that there is some other special reason why the person should not search any particular document, he may decline to permit that person to search that document.

(3) If a person referred to in subclause (1) (a) or (b) of this rule disputes the exercise by the Registrar of the power conferred on him by subclause (1) or subclause (2) of this rule, the Registrar shall, on that person's request, submit the request to a Judge, whose decision shall be final.

Cf. S.R. 1981/261, r. 8

PART III

PROCEEDINGS GENERALLY

9. Forms—(1) The forms to be used in proceedings under the Act shall be those set out in the First Schedule to these rules.

(2) Such variations may be made in any prescribed form as the circumstances of any particular case may require.

(3) Strict compliance with prescribed forms is not necessary and substantial compliance, or such compliance as the particular circumstances of the case allow, is sufficient.

(4) Where no form is prescribed by these rules or by the District Courts Rules (as applied by these rules), a form may be devised by the parties or by the Court, using as guides the forms prescribed by these rules and the District Courts Rules.

(5) Each sheet of paper used for any form shall be of International size A4.

(6) Each sheet of paper on which the contents of a document are recorded shall have those contents recorded only on one side.

(7) In the case of each form set out in the First Schedule to these rules,—

- (a) A margin of at least 40 mm shall be left at the top of each page; and
- (b) A margin of at least 70 mm shall be left on the right-hand side of each page.

Cf. S.R. 1981/261, r. 11

10. Notices—(1) All notices required to be given or served by the Act or by these rules shall be in writing, unless the Act or these rules otherwise provide or the Court in any particular case otherwise directs,

(2) Where an application is made for any order or direction relative to the service of an application upon a respondent, the Court or Judge or Registrar hearing the same may require such further information or matter to be stated in the notice to the respondent, and may impose such conditions as seem proper to the Court or Judge or Registrar in the circumstances of the particular case.

Cf. S.R. 1981/261, r. 12

11. Headings—(1) Every notice or order shall bear a proper heading.

(2) The heading, which may be in form D.P.1, shall show—

- (a) The Court in which the application or other matter is proceeding; and
- (b) The distinguishing number of the application or other matter; and
- (c) The names, addresses, and occupations of the parties.

(3) Subclauses (1) and (2) of this rule shall apply to every other document (not being an application in form D.P.2, form D.P.3, form D.P.4, form D.P.5, or form D.P.6, or an information sheet in form F.P.7) filed, issued, or served by any party:

Provided that in the case of any such document—

- (a) Surnames of individuals, where required to be inserted, shall be set out at length, but given names may, unless necessary to distinguish 2 or more persons required to be named, be indicated by initials only;
- (b) Addresses and occupations of persons, unless necessary to distinguish 2 or more persons required to be named, may be omitted.

Cf. S.R. 1981/261, r. 13

12. Applications—(1) An application—

- (a) For a non-violence order, shall be in form D.P.2;
- (b) For a non-molestation order, shall be in form D.P.3;
- (c) For an occupation order, shall be in form D.P.4;

(d) For a tenancy order, shall be in form D.P.5:

(e) For an ancillary order in respect of furniture, shall be in form D.P.6.

(2) Every application, being an application specified in subclause (1) of this rule, shall be filed together with such number of copies as the Registrar directs of the application and of the information sheet accompanying that application, which number shall not exceed the number of persons intended to be served.

(3) An application on notice, other than an application specified in subclause (1) of this rule, shall be in form D.P.7 and shall be filed together with such number of copies as the Registrar directs of the application, which number shall not exceed the number of persons intended to be served.

(4) An *ex parte* application, other than an application specified in subclause (1) of this rule, shall be in form D.P.8.

(5) Where a copy of a separation order or separation agreement or occupation order or tenancy order is to be used in support of an application under the Act, a copy of that order or agreement shall be lodged in the office of the Court at the time of the filing of the application, unless the Registrar otherwise directs.

(6) The application shall state the order or orders applied for and sufficient particulars to show the grounds on which the applicant claims to be entitled to the order or orders.

Cf. S.R. 1981/261, r. 15

13. *Ex parte* application for ancillary order in respect of furniture—An order under section 30 of the Act may be made on an *ex parte* application if the Court is satisfied—

- (a) That the respondent has used violence against or caused bodily harm to the applicant or a child of the family; and
- (b) That the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the family to physical injury.

14. Information sheet—(1) Every application (including an *ex parte* application), being an application specified in rule 12 (1) of these rules, shall be accompanied by a duly completed information sheet in form F.P.7 in the First Schedule to the Family Proceedings Rules 1981.

(2) Where the application is to be served, a copy of the information sheet shall be served with the application.

Cf. S.R. 1981/261, r. 18 (1)

15. Filing of applications—(1) Any application specified in rule 12 (1) of these rules may be filed—

- (a) In the District Court nearest to the place where the applicant resides; or
- (b) In the District Court nearest to the place where the respondent resides; or
- (c) With the written consent of the respondent filed with the application, in any other District Court.

(2) On the filing of the application the Registrar shall—

- (a) Enter the application in the records of the Court and fix a date and time for the hearing of the application, which date and time shall be as soon as possible; and

(b) Where the application has been filed by post, send to the applicant a notice of the date and time fixed for the hearing of the application.

(3) On the filing of any application which is specified in rule 12 (1) of these rules and which is made on notice the Registrar shall issue, for service on the respondent,—

(a) A copy of the application; and

(b) A notice to the respondent in form D.P.9; and

(c) A copy of the information sheet accompanying the application.

Cf. S.R. 1981/261, rr. 15 (5), 20

16. Procedure on *ex parte* applications—(1) If an *ex parte* application is one upon which an appearance is necessary or required, the Registrar shall fix a date and time for its hearing and shall inform the applicant of the date and time so fixed.

(2) If an order is made on an application on which no appearance is necessary or required by the applicant, the Registrar shall immediately inform the applicant of the terms of the order.

Cf. S.R. 1981/261, r. 17

17. Previous documents—(1) Where—

(a) The parties to an application (other than an interlocutory application) were the parties, or some of the parties, to any previous application under the Act or any previous application to which the Family Proceedings Rules 1981 apply; and

(b) Any such previous application was filed in a Court other than that in which the latest application is filed,—

there shall be filed with the latest application a document showing—

(c) The file number of any such previous application; and

(d) The Court in which any such previous application was filed.

(2) Any party to an application may, by the document filed under subclause (1) of this rule or by a document filed separately at any time, request the transfer to the Court in which the latest application is filed of all documents relating to any such previous application.

(3) The Registrar may, and shall, on receipt of a request under subclause (2) of this rule or by direction of a Judge, take all necessary steps to have the documents relating to any such previous application transferred.

Cf. S.R. 1981/261, r. 21

18. Proceedings commenced in wrong Court—(1) The Registrar may refuse to file any proceedings which, in his opinion, are tendered for filing in the wrong Court:

Provided that the applicant may on such refusal apply to a Judge for a direction that he is entitled to file the proceedings in that Court.

(2) Where proceedings are commenced in the wrong Court, a Judge, on such terms and conditions as he thinks fit, may either—

(a) Transfer the proceedings to the Court in which they ought to have been commenced; or

(b) Order that the proceedings shall continue in the Court in which they were commenced.

(3) Subject to subclause (2) of this rule, no objection shall be taken at the hearing or at any subsequent proceedings on the ground that the proceedings were filed in the wrong Court.

Cf. S.R. 1981/261, r. 22

19. Notice of defence—(1) Subject to subclause (2) of this rule, in any proceedings under the Act, the respondent may file in the Court and serve on the other party or the other party's solicitor a notice of defence in form D.P.10 at any time before the day fixed for the hearing.

(2) If the respondent fails to file and serve a notice of defence, the respondent may nevertheless without filing and serving a notice of defence, appear on the day of hearing and defend the application.

(3) If the respondent appears on the day of hearing without filing and serving a notice of defence, the Court may—

- (a) Make a decision on the application; or
- (b) On good cause being shown, adjourn the hearing to a fixed time and place.

(4) Where a hearing is adjourned under subclause (3) (b) of this rule to another day, the Court shall, at the adjourned hearing, make a decision on the application.

20. Interim occupation orders and interim tenancy orders made on *ex parte* applications—(1) Where—

- (a) An interim occupation order or an interim tenancy order is made on an *ex parte* application; and
- (b) The Court at the same time makes an interim non-molestation order,—

the date assigned under section 31 (1) of the Act for the hearing on whether an occupation order or a tenancy order should be made in substitution for the interim occupation order or the interim tenancy order and the date assigned for the hearing on whether a non-molestation order should be made in substitution for the interim non-molestation order shall be the same.

(2) Where—

- (a) An interim occupation order or an interim tenancy order is made on an *ex parte* application while the applicant and respondent (whether or not they are or have been married to each other) are living together in the same household; and
- (b) The Court does not at the same time make an interim non-molestation order,—

the date assigned under section 31 (1) of the Act for the hearing on whether an occupation order or a tenancy order should be made in substitution for the interim occupation order or the interim tenancy order shall be a date not later than the 7th day after the date of the making of the interim occupation order or the interim tenancy order.

21. Interlocutory applications—Any application in the course of proceedings shall be filed in the Court in which the proceedings were commenced or to which they have been transferred, or transferred for hearing, as the case may require.

Cf. S.R. 1981/261, r. 31

PART IV

TRANSFER OF PROCEEDINGS OR HEARING

22. Transfer of proceedings—If a Judge of any Court is satisfied that any proceedings in that Court can be more conveniently or fairly dealt with in some other Court, he may order them to be transferred to that other Court.

Cf. S.R. 1981/261, r. 34

23. Transfer of hearing—If a Judge of any Court is satisfied that any application filed in that Court can be more conveniently or fairly heard in some other Court, but that the application should remain an application to the first-mentioned Court, he may order that the hearing of the application shall take place in that other Court.

Cf. S.R. 1981/261, r. 35

24. Transfer with or without application—(1) Any transfer authorised by rule 22 or rule 23 of these rules may be made by the Judge of his own motion, or on the application of any party on not less than 3 days' notice.

(2) Where all parties consent, the order may be made by the Registrar.

(3) The order shall be endorsed on the application, and notice of the transfer shall be given to all parties.

Cf. S.R. 1981/261, r. 36

25. Procedure on transfer—Where, in relation to any proceedings under the Act,—

(a) Any transfer of proceedings or transfer of hearing is ordered under rule 22 or rule 23 of these rules; or

(b) Any transfer of proceedings to the High Court is ordered under section 14 of the Family Courts Act 1980,—
rule 37 of the Family Proceedings Rules 1981 shall apply with any necessary modifications to that transfer.

Cf. S.R. 1981/261, r. 37

PART V

SERVICE

26. Service generally—(1) Except as otherwise provided by these rules, the Registrar shall serve or cause to be served every application which is specified in rule 12 (1) of these rules and which is made on notice.

(2) The Registrar may also in his discretion, and shall on the direction of a Judge, serve or cause to be served any other document required for the purpose of any proceedings under the Act.

(3) The Registrar may permit a solicitor for a party or a solicitor acting as agent for that solicitor, or some person employed by either solicitor, to serve any application specified in subclause (1) of this rule.

Cf. S.R. 1981/261, r. 39 (1) (a), (2), (4)

27. Address for service—(1) Subject to subclause (2) of this rule, each party, unless he has sooner given his address for service in accordance with that subclause, shall give an address for service at the

foot of the first document filed by him or on the information sheet filed under rule 14 of these rules.

(2) A party (other than the party commencing proceedings) may give an address for service by stating it in a notice filed in the Court and by serving a copy of the notice on each other party to the proceedings.

(3) Any address for service may from time to time be altered by reasonable notice to the Registrar and to each other party to the proceedings.

(4) Except where the Act or these rules requires or prescribes personal service of a document or a copy of a document or prescribes, in relation to a document, a particular and exclusive mode by which that document is to be served or given, a document or a copy of a document that is required by the Act or these rules to be served or given may be served or given to any party—

(a) By leaving it at an address for service given by that party in accordance with this rule; or

(b) Where an address for service given by that party in accordance with this rule is the office of a solicitor and that solicitor has an exchange box in a document exchange, by leaving that document, addressed to that solicitor, in that exchange box or at another exchange box for transmission to that exchange box.

(5) The provisions of subclauses (1) to (4) of this rule, so far as they are applicable and with any necessary modifications, shall apply to every person who is given or served with any notice or other document in the proceedings, in the same manner as they apply to a party to the proceedings.

Cf. S.R. 1981/261, r. 40

28. Personal service—(1) Except as provided by rule 29 of these rules, every document, being—

(a) An application in form D.P.2, form D.P.3, form D.P.4, form D.P.5, form D.P.6, or form D.P.7; or

(b) A copy of an information sheet in form F.P.7. or

(c) A notice in form D.P.9,—

required by the Act or these rules to be served on any person shall be served by personally delivering the document to the person to be served or by bringing it to his notice if he refuses to accept it.

(2) Every such document may be served—

(a) By a bailiff; or

(b) By a constable where either no bailiff is available to serve the document or where a bailiff has attempted unsuccessfully to serve the document and the Registrar directs that the document be served by a constable; or

(c) By a solicitor for a party or a solicitor acting as agent for that solicitor, or by some person employed by either solicitor to serve the documents.

(3) Service of every such document shall—

(a) If service is effected in New Zealand, be effected not less than 5 clear days before the day of hearing of the application; or

(b) If service is effected out of New Zealand, be effected not less than 21 clear days before the day of hearing of the application.

(4) Personal service shall in no case be effected by a party to the proceedings, but such a party may be present when service is effected.

Cf. S.R. 1981/259, r. 109; S.R. 1981/261, r. 41

29. Substituted service—(1) Where for any sufficient reason service of any document cannot be effected in the manner prescribed by rule 27 (4) or rule 28 of these rules, the Court may, on such terms and conditions as it thinks fit, make an order—

- (a) Giving leave for steps to be taken to bring the document to the knowledge of the person to be served by advertisement or in some other manner; or
 - (b) Dispensing altogether with service.
- (2) Where an order under subclause (1) (a) of this rule has been carried out, the steps taken may be called substituted service, and such service shall have the same effect as personal service.

(3) Where leave is given under this rule to bring the document to the knowledge of the person to be served by advertisement, the advertisement shall be in form D.P.11. In such a case the names of the newspapers in which the advertisement is published and the respective dates of publication shall be shown in the affidavit filed in proof of the due publication of the advertisement and extracts showing those advertisements and taken from those newspapers shall be attached to the affidavit as exhibits.

Cf. S.R. 1981/261, r. 42

30. Proof of service of documents by officer or constable—(1) Where any document is served by any officer of a Court or by any constable, the service may be proved—

- (a) By showing the fact and the date and mode of service—
 - (i) In an endorsement on the original document or a copy of it; or
 - (ii) In a certificate attached to the original document or a copy of it; or
 - (b) In any other mode prescribed by these rules or by the District Courts Rules.
- (2) An endorsement or certificate under subclause (1) (a) of this rule shall be signed—
- (a) By the person who served the document; or
 - (b) If the service was effected by registered letter, by an officer of the Court who knows of the service.

Cf. S.R. 1981/261, r. 43

31. Service of orders—(1) The Registrar shall, as soon as practicable after the making of any order (including any *ex parte* or interim or ancillary order) under the Act, take all reasonable steps to serve a copy of the order upon the parties.

(2) Subject to subclause (3) of this rule, every such order shall be served by personally delivering it to the person to be served or by bringing it to his notice if he refuses to accept it.

(3) Where for any sufficient reason service of an order on a party cannot be effected in the manner prescribed in subclause (2) of this rule, service shall be effected—

- (a) By service of a copy of the order on the solicitor, if any, who represents the party; or
- (b) In accordance with the provisions of rule 85 of the District Courts Rules 1948 relating to service by registered letter.
- (4) On the making of an interim order or a final order, being—
 - (a) A non-violence order; or

- (b) A non-molestation order; or
- (c) An occupation order; or
- (d) A tenancy order; or
- (e) An ancillary order under section 30 of the Act; or
- (f) An order varying or discharging any order specified in paragraphs (a) to (e) of this subclause or an order made in substitution for any order so specified,—

the Registrar shall supply a copy of the order to the District Commander at the appropriate District Police Headquarters.

Cf. S.R. 1981/261, r. 45

PART VI

AMENDMENT

32. Amendment before service—The Registrar may, on the request in writing of the applicant at any time before the service of the application, amend any application.

Cf. S.R. 1981/261, r. 50

33. Amending proceedings—The Court may, either upon or without the application of either party and at any stage of the proceedings,—

- (a) Amend any defect or error in any proceedings, whether the defect or error is that of the party applying to amend or not; or
- (b) Amend the name, address, or occupation of either of the parties as set out in any document in the proceedings,—

and all such amendments as may be necessary for the purpose of determining the real question in dispute between the parties may be made, and the proceedings shall continue in all respects as if they had been commenced in the form in which they appear after the amendment has been made.

Cf. S.R. 1981/261, r. 51

34. Amendment of application or notice of defence—(1) With the leave of the Court, an applicant may file and serve an amended application and a respondent may file and serve an amended notice of defence at any time before the hearing.

(2) When an application or notice of defence is amended, the Court may, at the hearing, on good cause being shown, adjourn the hearing for such time and on such terms as may be just.

Cf. S.R. 1981/261, r. 52

35. Clerical mistakes and slips—Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a Judge or a Registrar.

Cf. S.R. 1981/261, r. 53

PART VII

APPLICATIONS AND DIRECTIONS IN THE COURSE OF PROCEEDINGS

36. General procedure—(1) Where by the Act or by these rules any application in the course of any proceedings is expressly or by implication authorised to be made to the Court or to the Judge or to the Registrar,

then, subject to the provisions of the particular section of the Act or rule applicable thereto, the following provisions shall apply:

- (a) The application may be made either in Court or in Chambers and either *ex parte* or on notice:
- (b) If made *ex parte*, the application shall be in form D.P.8.:
- (c) If made on notice, the application shall be filed in the District Court and served on the opposite party not later than 3 clear days before the time appointed for the hearing of the application, unless the Judge or Registrar dispenses with notice or gives leave for shorter notice:
- (d) No affidavit shall be necessary in the first instance, but the Judge or Registrar may direct evidence to be adduced in such manner as the Judge or Registrar thinks fit:
- (e) Upon the hearing of the application, the Judge or Registrar may make such order as the Judge or Registrar thinks fit:
- (f) If the Registrar has power to hear and determine the application, the applicant shall, unless the Judge otherwise orders, make the application to the Registrar in the first instance:
- (g) Where the application is made to the Registrar, the Registrar may, if in doubt as to the proper order to be made, refer the application to the Judge forthwith or at the next convenient opportunity and the Judge may hear the application and make such orders as the Judge thinks fit:
- (h) The costs of interlocutory applications shall be in the discretion of the Court, and if allowed shall be costs in the proceedings unless the Judge or Registrar otherwise orders:
- (i) Where the Registrar has made an order to which this rule applies, any party who is dissatisfied therewith may apply to the Judge on notice to vary or rescind the order, and on hearing the application the Judge may vary or rescind the order and may make such order as he thinks fit:
- (j) The application need not be heard by the Judge before whom other applications in the same proceedings are pending:
- (k) If the Registrar is satisfied that by reason of the absence of the Judge any application can be more expeditiously heard and determined in some other Court, he may, of his own motion or on the request of either party, order that the application be transferred for hearing to that Court, and the provisions of rule 37 (2) of the Family Proceedings Rules 1981 (as applied by rule 25 of these rules) shall apply to the transfer.

(2) The jurisdiction of the Court to hear any application in the course of proceedings may be exercised by the Registrar, unless there is provision to the contrary in the Act or these rules.

Cf. S.R. 1981/261, r. 55

37. *Ex parte* applications—An order may be made under rule 36 of these rules on an *ex parte* application where the Court is satisfied—

- (a) That the delay that would be caused by proceeding on notice would or might entail serious injury or undue hardship; or
- (b) That the delay that would be caused by proceeding on notice would or might entail risk to the personal safety of the applicant or any child of the applicant's family; or

- (c) That the application affects only the party moving, or is in respect of a matter of routine, or is of so unimportant a nature that the interest of any other party cannot be affected thereby.

Cf. S.R. 1981/261, r. 16 (2) (a)

38. Enlargement or abridgement of time—(1) Subject to these rules, any of the times fixed by these rules for—

- (a) Taking any steps in any proceedings; or
 (b) Filing any document; or
 (c) Giving or serving any notice—

may be enlarged or abridged by consent of both parties or by the Court on the application of either party.

(2) An order enlarging time may be made although the application for the order is not made until after the expiration of time allowed or appointed.

(3) An order enlarging or abridging time may be varied by the Court on the application of either party.

(4) No order enlarging time may be made where it appears that the application for the order was made with the principal object of delaying the proceedings to the detriment of the other party.

Cf. S.R. 1981/261, r. 56

PART VIII

EVIDENCE

39. Order for production of documents—(1) The Court may at any stage of the proceedings order the production by any party thereto of any documents in his possession, custody, or power relating to any question in the proceedings, and the Court may deal with the documents when produced in such manner as may be just.

(2) If any party fails to comply with an order made under subclause (1) of this rule, the following provisions shall apply:

- (a) If the party failing to comply with the order is the applicant, the Court may order the proceedings to be dismissed or stayed until the order is complied with:
 (b) If the party failing to comply with the order is a respondent the Court may order that he be allowed to defend only on such terms as the Court thinks fit.

Cf. S.R. 1981/261, r. 68

40. Powers of Judge or Registrar not suspended by examination of witnesses out of Court—The pendency of any examination under rule 198 of the District Courts Rules, as applied to proceedings to which these rules apply, shall not suspend or prevent the exercise by any Judge or Registrar of any power or jurisdiction which he would otherwise possess in respect of the application.

Cf. S.R. 1981/261, r. 69

41. Taking evidence outside New Zealand—Where in any proceedings under the Act, the evidence of any person is to be taken outside New Zealand, that evidence may be taken in accordance with the rules of the High Court of New Zealand for the time being governing the examination of witnesses out of New Zealand.

Cf. S.R. 1982/261, r. 70

PART IX

MISCELLANEOUS PROVISIONS

42. Court and Chambers—The Court may, for the purpose of doing justice between the parties and any other persons likely to be affected by the proceedings, from time to time adjourn the hearing of any proceedings from Court to Chambers and from Chambers to Court.

Cf. S.R. 1981/261, r. 71 (1)

43. Powers of Registrar—(1) Where the Registrar is authorised under these rules to hear and determine any proceedings or to exercise any other jurisdiction, he shall, within the limits of that authority and subject to any right of review by a Judge under these rules, have all the powers of a Judge; and any order by the Registrar shall have the same effect, and be enforceable in the same manner, as if it were an order of a Judge.

(2) Nothing in this rule shall authorise the Registrar to commit any person to a penal institution or to enforce any order by committal.

(3) Any order made by a Judge may be signed by the Registrar in his own name and description.

Cf. S.R. 1981/261, r. 73

44. Witness entitled to expenses—Every witness attending a Court upon a witness summons, and every other person giving evidence in the course of the proceedings, shall be entitled as against the party calling him to a sum for his fees, allowances, and travelling expenses in accordance with the Witnesses and Interpreters Fees Regulations 1974:

Provided that the Court may, on application, disallow the whole or any part of that sum.

Cf. S.R. 1981/261, r. 77

45. Bringing of arrested person before a Judge—Form D.P.17 may be used for the purposes of section 12 of the Act.

46. Amendments to Family Proceedings Rules 1981—(1) Rule 18 (1) (b) of the Family Proceedings Rules 1981 is hereby amended—

(a) By revoking subparagraphs (iv) and (v):

(b) By omitting the expression “to (v)”, and substituting the expression “to (iii)”.

(2) The First Schedule to the Family Proceedings Rules 1981 is hereby amended by revoking form F.P.65.

47. Transitional provisions—(1) Nothing in these rules prevents any proceedings which have been commenced pursuant to any of the provisions of sections 176 to 179 of the Family Proceedings Act 1980 and which are pending at the commencement of these rules from being determined and completed under those provisions as if those provisions were still in force.

(2) All applications, proceedings, appeals, and other matters which before the commencement of these rules have been brought or made under or pursuant to any of the provisions of the Act or any provision of the District Courts Rules, and which have not been determined or completed before the commencement of these rules, shall be determined and completed as if these rules had not been made.

SCHEDULES

Rules 3 (2), 9

FIRST SCHEDULE

- D.P. 1—General heading
- D.P. 2—Application for Non-violence Order
- D.P. 3—Application for Non-molestation Order
- D.P. 4—Application for Occupation Order
- D.P. 5—Application for Tenancy Order
- D.P. 6—Application for Ancillary Order in respect of Furniture
- D.P. 7—Application on notice
- D.P. 8—*Ex parte* application
- D.P. 9—Notice to respondent
- D.P.10—Notice of defence
- D.P.11—Notice by advertisement
- D.P.12—Non-violence order
- D.P.13—Non-molestation order
- D.P.14—Occupation order
- D.P.15—Tenancy order
- D.P.16—Ancillary order in respect of furniture
- D.P.17—Submission to Judge in relation to arrested person

Form D.P.1

Rule 11 (2)

GENERAL HEADING

[Where not otherwise provided in these rules]

In the District Court
at

No.

Applicant
[Give full name, address, and occupation]

Respondent
[Give full name, address, and occupation]

Form D.P.2

Rules 11 (3), 12 (1) (a)

APPLICATION FOR NON-VIOLENCE ORDER
Sections 4 to 6, Domestic Protection Act 1982

I, [Full name] apply (or apply *ex parte*) for an order restraining [Full name] from using violence against, or causing bodily harm to, me (or [Full name] a child of the family), and from threatening to do so.

This application is made on the grounds that [Full name] has used violence against, or caused bodily harm to, me (or [Full name], a child of the family), and is likely to do so again.

FIRST SCHEDULE—continued

I say:

1. [Full name] and I are (or have been) married to each other.

OR

1. [Full name] and I are (or have been) living together in the same household.

2. [Set out sufficient information to inform the Court of the other facts relied on in support of the application.

If the application is made ex parte the facts will need to satisfy the Court—

- (a) That the delay that would be caused by proceeding on notice would or might entail risk to the personal safety of the applicant or a child of the family; or
- (b) That the delay that would be caused by proceeding on notice would or might entail serious injury or undue hardship.]

Signature of Applicant:

Date:

[The Registrar is to complete the following appointment for hearing—

- (a) If the application is made on notice; or
- (b) If in the case of an ex parte application, an appearance is necessary or required.]

Date of Hearing

I hereby appoint [Date] at a.m. (p.m.) at the District Court at for the hearing of the above application.

.....

Registrar.

.....

Date

Notes

Advice. If you need help, consult a lawyer or contact a District Court office immediately.

Office hours. The office of the District Court is open from to on Mondays to Fridays inclusive.

Information sheet. A duly completed information sheet (Form F.P.7) must accompany this application. See rule 14.

Ex parte application. If this application is made ex parte, any non-violence order made in the first instance will be an interim order. A date will be set for a hearing on whether the interim order should be replaced by a final order. However the respondent may apply immediately for the variation or discharge of an interim order.



FIRST SCHEDULE—continued

Form D.P.3

Rules 11 (3), 12 (1) (b)

APPLICATION FOR NON-MOLESTATION ORDER

Sections 13 to 15, Domestic Protection Act 1982

I, [Full name], being—

- * (a) A party to proceedings for a separation order; or
- * (b) A party to a marriage in respect of which a separation order is in force; or
- * (c) A party to proceedings for an occupation order or a tenancy order; or
- * (d) A person in whose favour an occupation order is in force; or
- * (e) A person excluded from occupation of premises by an occupation order that is in force; or
- * (f) A person in whom the tenancy of a dwellinghouse is vested by a tenancy order that is in force; or
- * (g) A person who, as a consequence of a tenancy order that is in force, has ceased to be the tenant of a dwellinghouse; or
- * (h) A person who is married to [Full name] but who is now living apart from [Full name]; or
- * (i) A person who has been married to [Full name] but who is now living apart from [Full name]; or
- * (j) A person who has been living together with [Full name] in the same household but who is no longer living together with [Full name] in the same household,—

apply (or apply *ex parte*) for a non-molestation order against [Full name].

This application is made on the grounds that the order is necessary for my protection [or for the protection of [Full name], a child of my family].

I say:

[Set out sufficient information to inform the Court of the other facts relied on in support of the application.

If the application is made *ex parte* the facts will need to satisfy the Court—

- (a) That the delay that would be caused by proceeding on notice would or might entail risk to the personal safety of the applicant or a child of the applicant's family; or
- (b) That the delay that would be caused by proceeding on notice would or might entail serious injury or undue hardship.]

Signature of Applicant:

Date:

*Delete if inapplicable.

FIRST SCHEDULE—continued

[The Registrar is to complete the following appointment for hearing—

- (a) If the application is made on notice; or
- (b) If in the case of an *ex parte* application, an appearance is necessary or required.]

Date of Hearing

I hereby appoint [Date] at a.m. (p.m.) at the District Court at for the hearing of the above application.

.....

Registrar.

.....

Date

Notes

Advice. If you need help, consult a lawyer or contact a District Court office immediately.

Office hours. The office of the District Court is open from to on Mondays to Fridays inclusive.

Information sheet. A duly completed information sheet (Form F.P.7) must accompany this application. See rule 14.

Ex parte application. If this application is made *ex parte*, any non-molestation order made in the first instance will be an interim order. A date will be set for a hearing on whether the interim order should be replaced by a final order. However the respondent may apply immediately for the variation or discharge of an interim order.



Form D.P.4

Rules 11 (3), 12 (1) (c)

APPLICATION FOR OCCUPATION ORDER

Sections 19 to 21, Domestic Protection Act 1982

I, [Full name], being a person who—

- * (a) Is married to [Full name]; or
- * (b) Has been married to [Full name]; or
- * (c) Is living together with [Full name] in the same household; or
- * (d) Has been living together with [Full name] in the same household—
apply (or apply *ex parte*) for—
- * (e) An occupation order granting to me the right to live in the household residence situated at [Full address]; and
- * (f) An ancillary order granting to me the use of—
 - * (i) All the furniture, household appliances, and household effects in the household residence; or
 - * (ii) The following items (being furniture, household appliances, or household effects in the household residence):

[Specify the items]

FIRST SCHEDULE—continued

*Interests in the property to which this application relates, being interests that would be affected by the making of an occupation order, are held by each of the following persons:

Full Name	Full Address	Nature of Interest
.....

The application for an occupation order is made on the grounds that the order—

- (a) Is necessary for my protection; or
- (b) Is in the best interests of [*Full name*], a child of the family.

I say:

[Set out sufficient information to inform the Court of the facts relied on in support of the application.

If the application is made *ex parte* the facts will need to satisfy the Court—

- (a) That the respondent has used violence against or caused bodily harm to the applicant or a child of the family; and
- (b) That the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the family to physical injury.

If an order in respect of furniture, household appliances, or household effects is applied for, the Court must be satisfied that a child of the family is living in the household residence.]

Signature of Applicant:

Date:

*Delete if inapplicable.

[The Registrar is to complete the following appointment for hearing—

- (a) If the application is made on notice; or
- (b) If in the case of an *ex parte* application, an appearance is necessary or required.]

Date of Hearing

I hereby appoint [*Date*] at a.m. (p.m.) at the District Court at for the hearing of the above application.

.....
Registrar.

.....
Date

Notes

Advice. If you need help, consult a lawyer or contact a District Court office immediately.

Office hours. The office of the District Court is open from to on Mondays to Fridays inclusive.

Information sheet. A duly completed information sheet (Form F.P.7) must accompany this application. See rule 14.

Ex parte application. If this application is made *ex parte*, any occupation order made in the first instance will be an interim order. A date will be set

FIRST SCHEDULE—continued

for a hearing on whether the interim order should be replaced by a final order. However the respondent may apply immediately for the variation or discharge of an interim order.

Interim non-molestation order. If the Court makes an occupation order on an *ex parte* application, the Court is required to make at the same time an interim non-molestation order unless it considers that there are special reasons why such an order should not be made.

Ancillary order in respect of furniture. Under section 30 of the Domestic Protection Act 1982 the Court has power, on or after the making of an occupation order, to make an ancillary order granting to the applicant for the occupation order the use of all or any of the furniture, household appliances, and household effects in the household residence or other premises to which the occupation order relates.

Form D.P.5

Rules 11 (3), 12 (1) (d)

APPLICATION FOR TENANCY ORDER

Sections 24 to 28, Domestic Protection Act 1982

I, [Full name], being a person who—

- * (a) Is married to [Full name]; or
- * (b) Has been married to [Full name]; or
- * (c) Is living together with [Full name] in the same household; or
- * (d) Has been living together with [Full name] in the same household—
apply (or apply *ex parte*) for—
- * (e) A tenancy order vesting in me the tenancy of a dwellinghouse situated at [Full address], being a dwellinghouse within the meaning of the Tenancy Act 1955—
 - (i) Of which [Full name] is either the sole tenant or a tenant holding jointly or in common with me; and
 - (ii) In which I or [Full name] resides.
- * (f) An ancillary order granting to me the use of—
 - * (i) All the furniture, household appliances, and household effects in the dwellinghouse; or
 - * (ii) The following items (being furniture, household appliances, or household effects in the dwellinghouse):

[Specify the items]

*Interests in the property to which this application relates, being interests that would be affected by the making of an occupation order, are held by each of the following persons:

Full Name	Full Address	Nature of Interest
.....

The application for a tenancy order is made on the grounds that the order—

- * (a) Is necessary for my protection; or
- * (b) Is in the best interests of [Full name], a child of the family.

FIRST SCHEDULE—continued

I say:

[Set out sufficient information to inform the Court of the facts relied on in support of the application.

If the application is made ex parte the facts will need to satisfy the Court—

(a) That the respondent has used violence against or caused bodily harm to the applicant or a child of the family; and

(b) That the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the family to physical injury.

If an order in respect of furniture, household appliances, or household effects is applied for, the Court must be satisfied that a child of the family is living in the dwellinghouse.]

Signature of Applicant:

Date:

*Delete if inapplicable.

[The Registrar is to complete the following appointment for hearing—

(a) If the application is made on notice; or

(b) If in the case of an ex parte application, an appearance is necessary or required.]

Date of Hearing

I hereby appoint [Date] at a.m. (p.m.) at the District Court at for the hearing of the above application.

.....
Registrar.

.....
Date

Notes

Advice. If you need help, consult a lawyer or contact a District Court office immediately.

Office hours. The office of the District Court is open from to on Mondays to Fridays inclusive.

Information sheet. A duly completed information sheet (Form F.P.7) must accompany this application. See rule 14.

Ex parte application. If this application is made ex parte, any tenancy order made in the first instance will be an interim order. A date will be set for a hearing on whether the interim order should be replaced by a final order. However the respondent may apply immediately for the variation or discharge of an interim order.

Interim non-molestation order. If the Court makes a tenancy order on an ex parte application, the Court is required to make at the same time an interim non-molestation order unless it considers that there are special reasons why such an order should not be made.

Ancillary order in respect of furniture. Under section 30 of the Domestic Protection Act 1982 the Court has power, on or after the making of a tenancy order, to make an ancillary order granting to the applicant for the tenancy order the use of all or any of the furniture, household appliances, and household effects in the dwellinghouse to which the tenancy order relates.

FIRST SCHEDULE—continued

Form D.P.6

Rule 12 (1) (e)

APPLICATION FOR ANCILLARY ORDER IN RESPECT OF FURNITURE

(General heading—Form D.P.1)

Section 30, Domestic Protection Act 1982

I, [Full name], being—

* (a) A person in whose favour an occupation order (or a tenancy order) is in force; or

* (b) An applicant for an occupation order (or a tenancy order)—apply (or apply ex parte) for an ancillary order granting to me the use of—

* (c) All the furniture, household appliances, and household effects in the household residence (or dwellinghouse); or

* (d) The following items (being furniture, household appliances, or household effects in the household residence (or dwellinghouse)):

[Specify the items]

I say:

1. [Full name], a child of the family lives in—

* (a) The household residence to which the occupation order relates (or in respect of which the occupation order is being sought); or

* (b) The dwellinghouse to which the tenancy order relates (or in respect of which the tenancy order is being sought).

2. [Set out sufficient information to inform the Court of the other facts relied on in support of the application.

If the application is made ex parte the facts will need to satisfy the Court—

(a) That the respondent has used violence against or caused bodily harm to the applicant or a child of the family; and

(b) That the delay that would be caused by proceeding on notice would or might expose the applicant or a child of the family to physical injury.]

[The Registrar is to complete the following appointment for hearing—

(a) If the application is made on notice; or

(b) If in the case of an ex parte application, an appearance is necessary or required.]

Date of Hearing

I hereby appoint [Date] at a.m. (p.m.) at the District Court at for the hearing of the above application.

.....
Registrar.

.....
Date

*Delete if inapplicable.

Notes

Advice. If you need help, consult a lawyer or contact a District Court office immediately.

Office hours. The office of the District Court is open from to on Mondays to Fridays inclusive.

Information sheet. A duly completed information sheet (Form F.P.7) must accompany this application. See rule 14.

FIRST SCHEDULE—continued

Rule 12 (3)

Form D.P.7

APPLICATION ON NOTICE

Domestic Protection Act 1982

(General heading—Form D.P.1)

I, [Full name], apply for an order [State precisely the nature of the order sought] on the following grounds:

[State the grounds on which the application is made, referring to the Act or rule relied on and following closely the wording of the Act or rule].

I say:

[Set out sufficient information to inform the Court of the facts relied on in support of the application].

Signature of Applicant:

Date:

To: The Registrar
District Court
.....

and

To: The Respondent.

This application is filed by, whose address for service is at

Date of Hearing

*I hereby appoint [Date] at a.m. (p.m.) at the District Court at for the hearing of the above application.

*Delete if inapplicable.

.....
Registrar.

.....
Date

Notes

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from to on Mondays to Fridays inclusive.



FIRST SCHEDULE—continued

Form D.P.8

Rules 12 (4), 36 (1) (b)

EX PARTE APPLICATION

(General heading—Form D.P.1)

I, [Full name], apply *ex parte* for an order [State precisely the nature of the order sought] on the following grounds:

[State the grounds on which the application is made, referring to the Act or rule relied on and following closely the wording of the Act or rule].

I say:

[Set out sufficient information to inform the Court of the facts relied on in support of the application].

Signature of Applicant:

Date:

To: The Registrar
District Court
.....

This application is filed by, whose address for service is at

[In cases where an appearance is necessary or required, the Registrar is to complete the following appointment for hearing]:

Date of Hearing

I hereby appoint [Date] at a.m. (p.m.) at the District Court at for the hearing of the above application.

.....
Registrar.

.....
Date



FIRST SCHEDULE—continued

Rule 15 (3) (b)

Form D.P.9

NOTICE TO RESPONDENT

In the District Court
at

D.P. No.

To:
.....
.....

An application has been filed in this Court by [*Full name*].

A copy is attached. The order or orders sought by the applicant are specified in the application.

Notice of defence

If you wish to defend the application, you may file a notice of defence in this office of the Court.

If you file a notice of defence, you must serve a copy of the notice of defence on the other party to the proceedings. That copy may be delivered to the address for service given by the applicant.

Whether or not you file and serve a notice of defence, you may attend the Court at the date and time stated to defend the application. You should be ready to proceed with your defence on that date.

Address for service

If you do not wish to defend the application but you do wish to know what is happening, you should—

- (a) File in this office of the Court a notice giving the address of a place in New Zealand at which documents can be left for you; and
- (b) Serve a copy of the notice on the other party to the proceedings. That copy may be delivered to the address for service given by the applicant.

Assistance

A lawyer will prepare a notice of defence for you. If you want a lawyer but think you cannot afford one, you should contact an office of the District Court immediately. You may also see a specimen form of the notice of defence at any office of the District Court.

Copies of orders

You will get copies of any orders made against you. However, any order will probably be in force from the time it is made. The fact that you have not got a copy of the order will not be an excuse for not obeying it.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from to on Mondays to Fridays inclusive.

.....
Registrar.

.....
Date

FIRST SCHEDULE—*continued*

Form D.P.10

Rule 19

NOTICE OF DEFENCE

(General heading—Form D.P.1)

I, [*Full name*], of [*Address*], [*Occupation*], give notice that I intend to defend the application for [*Specify the order(s) opposed*].

I say, in answer to the applicant,—

- 1. [*State whether the facts given in the application are accepted or rejected. If any facts are rejected, state reasons*].
- 2. [*Set out sufficient information to inform the Court of the facts relied on by the defence*].
- 3. [*Set out any other facts relating to the application or to the circumstances which have existed or are existing between the parties which the Court should be told about*].

Signature of Respondent:

Date:

To: The Registrar
District Court
.....

and

To: The Applicant.

This notice is filed by,
whose address for service is
at



FIRST SCHEDULE—continued

Rule 29 (3)

Form D.P.11

NOTICE BY ADVERTISEMENT

In the District Court
at

To [Full name], [Occupation], formerly of [Address].

[Full name] has filed an application against you for the following orders:
.....

A copy of the application, with a notice containing information for you,
may be obtained from my office.

The application has been set down for hearing on [Date].

.....
Registrar.

.....
Date

Any person knowing the whereabouts of the above-named is
asked to bring this notice to his (or her) attention.

Rule 9

Form D.P.12

NON-VIOLENCE ORDER

(General heading—Form D.P.1)

Section 7, Domestic Protection Act 1982

Upon application made to it the Court makes a non-violence order (or
an interim non-violence order) against the respondent.

The effect of the order is that the respondent must not use violence
against, or cause bodily harm to, the applicant or a child of the family,
and must not threaten to do so.

**IF THE RESPONDENT DOES ANY OF THESE THINGS, THE
RESPONDENT MAY BE ARRESTED WITHOUT WARRANT AND
HELD IN POLICE CUSTODY FOR A PERIOD OF 24 HOURS.**

*This order is an interim order only. A hearing on whether an order
should be made in substitution for the interim order will be held on [Date]
at a.m. (p.m.) at the District Court at If the
respondent does not attend that hearing to show cause why an order
should not be substituted for the interim order, the Court may discharge
the interim order and make an order in its place.

*Delete if the order is not an interim order.

.....
Registrar.

.....
Date

FIRST SCHEDULE—*continued**Notes**Rights of Respondent*

If you are arrested for breaching the order,—

- you are entitled to talk on the telephone to one person of your choice (not being the applicant or a child of the family).
- you are entitled to ask the Police to bring you before a District Court Judge. The Police must then bring you as soon as practicable before such a Judge or, if such a Judge is not available, a Justice of the Peace.
- The Judge or Justice may then direct—
 - (a) That you be released forthwith or at any specified time within the period of 24 hours; or
 - (b) That you continue to be detained in Police custody until the expiry of the period of 24 hours.
- If you ask between 11 o'clock at night and 6 o'clock in the following morning to be brought before a District Court Judge, bringing you before such a Judge or a Justice of the Peace by 11 o'clock on the following morning will generally be regarded as being as soon as practicable.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from to on Mondays to Fridays inclusive.

Form D.P.13

NON-MOLESTATION ORDER

Rule 9

(General heading—D.P.1)

Section 16, Domestic Protection Act 1982

Upon application made to it the Court makes a non-molestation order (*or* an interim non-molestation order) against the respondent.

The effect of the order is as follows:

1. The respondent must not enter or remain on any land or in any building that the applicant occupies, or in which the applicant or any child of the applicant's family lives or is present if—
 - (a) There is an occupation order or tenancy order in force in favour of the applicant; or
 - (b) There is a separation order or separation agreement in force between the applicant and the respondent; or
 - (c) The respondent would be a trespasser.

Note: If there is an occupation order or a tenancy order or a separation agreement or a separation order in force, the respondent may go on to the property *if the applicant consents*.

2. The respondent must not watch or beset the applicant's dwellinghouse or place of business, employment, or residence.

FIRST SCHEDULE—continued

- 3. The respondent must not follow or waylay the applicant in any public place.
- 4. The respondent must not make persistent telephone calls to the applicant at the applicant's dwellinghouse or place of business, employment, or residence.
- 5. The respondent must not, in respect of any child of the applicant's family,—
 - (a) Watch or beset the child at the child's place of residence or education; or
 - (b) Follow or waylay the child in any public place; or
 - (c) Make persistent telephone calls to the child at the child's place of residence or any other place.

If the respondent does any of the things mentioned in paragraphs 1 to 5 above, the respondent commits an offence and, upon conviction, is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$500.

*This order is an interim order only. A hearing on whether an order should be made in substitution for the interim order, is to take place on [Date] at a.m. (p.m.) at the District Court at If the respondent does not attend the hearing to show cause why a non-molestation order should not be substituted for the interim order, the Court may discharge the interim order and make a non-molestation order in its place.

*Delete if the order is not an interim order.

.....
Registrar.

.....
Date

Notes

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from to on Mondays to Fridays inclusive.



FIRST SCHEDULE—*continued*

Form D.P.14

Rule 9

OCCUPATION ORDER

(General heading—Form D.P.1)

Section 22, Domestic Protection Act 1982

Upon application made to it the Court makes an occupation order (*or an interim occupation order*) against the respondent. The effect of the order is that the applicant is entitled, to the exclusion of the respondent, personally to occupy the household residence (*or [Specify the other premises, if any, to which the order relates]*) at [*Full address*].

*This order is an interim order only. A hearing on whether an order should be made in substitution for the interim order will take place on [*Date*] at a.m. (p.m.) at the District Court at If the respondent does not attend the hearing to show cause why an occupation order should not be substituted for the interim order, the Court may discharge the interim order and make an occupation order in its place.

*Delete if the order is not an interim order.

.....

Registrar.

.....

Date

Notes

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from to on Mondays to Fridays inclusive.

—

FIRST SCHEDULE—continued

Rule 9

Form D.P.15

TENANCY ORDER

(General heading—Form D.P.1)

Section 27, Domestic Protection Act 1982

Upon application made to it the Court makes a tenancy order (or an interim tenancy order) against the respondent.

The dwellinghouse to which the order relates is situated at [Full address].

The effect of the order is that the applicant becomes the tenant of the dwellinghouse upon and subject to the terms and conditions of the tenancy in force at the time of the making of the order, and the respondent ceases to be the tenant.

*This order is an interim order only. A hearing on whether an order should be made in substitution for the interim order will take place on [Date] at a.m. (p.m.) at the District Court at If the respondent does not attend the hearing to show cause why a tenancy order should not be substituted for the interim order, the Court may discharge the interim order and make a tenancy order in its place.

*Delete if the order is not an interim order.

.....
Registrar.

.....
Date

Notes

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

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FIRST SCHEDULE—continued

Form D.P.16

Rule 9

ANCILLARY ORDER IN RESPECT OF FURNITURE

(General heading—Form D.P.1)

Section 30, Domestic Protection Act 1982

Having made

- *(a) An occupation order; or
- *(b) A tenancy order

on [Date] in favour of the applicant, the Court hereby makes an order granting to the applicant the use of—

- *(c) All the furniture, household appliances, and household effects in the household residence or other premises to which the occupation order relates (or in the dwellinghouse to which the tenancy order relates);

or

- *(d) The following items (being furniture, household appliances, and household effects in the household residence or other premises to which the occupation order relates (or in the dwellinghouse to which the tenancy order relates)):

[Specify the items]

The household residence or other premises to which the occupation order relates (or the dwellinghouse to which the tenancy order relates) is situated at [Full address].

*This ancillary order is made on the following terms and conditions:

[Specify the terms and conditions]

This ancillary order continues in force for—

- *(a) The period of 3 months beginning with the date on which the order is made; or
- *(b) [As directed by the Court].

This order expires if the occupation (or tenancy order) expires or is discharged.

.....

Registrar.

.....

Date

*Delete if inapplicable

Notes

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

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FIRST SCHEDULE—continued

Rule 45

Form D.P.17

SUBMISSION TO JUDGE IN RELATION TO ARRESTED PERSON

Section 12, Domestic Protection Act 1982

Submission

[Full name] was arrested at a.m. (p.m.) on [Date] for an alleged breach of a non-violence order and has subsequently been detained in Police custody.

*I, [Full name], the person so arrested, am being brought before a Judge at my own request. I seek a direction that I be released from Police custody forthwith or before the expiry of the period of 24 hours beginning with the time of my arrest.

OR

*I, [Full name], a member of the Police, am bringing the person so arrested before a Judge. I seek a direction that the person so arrested be released from Police custody forthwith or before the expiry of the period of 24 hours beginning with the time of that person's arrest.

I say, in seeking that direction, [State briefly the reasons why the direction is sought].

Signature:

Date:

Direction

I, [Full name], a District Court Judge (or a Justice of the Peace) direct that [Full name]

*Be released forthwith:

*Be released at a.m. (p.m.) on [Date]:

*Continue to be detained in Police custody until the expiry of the period of 24 hours beginning with the time of his arrest.

*Delete if inapplicable.

.....

Signature.

.....

Date



SECOND SCHEDULE

Rule 5 (4)

PROVISIONS OF THE DISTRICT COURTS RULES WHICH DO NOT APPLY TO
PROCEEDINGS UNDER THE ACT

RULES 9A, 26, 30, 32, 33, 34, 35, 48-58, 75, 84, 85 (1), (4), 87, 89, 90, 109, 143, 147, 161, 164, 165, 167, 174, 175, 176, 177, 178, 179, 180, 190, 212, 213, 236, 246, 264-278A, 314, 335.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 1 April 1983, prescribe the procedure to be followed in respect of proceedings under the Domestic Protection Act 1982.

A number of the provisions of the Family Proceedings Rules 1981 have been applied by or incorporated in these rules. Where these rules (including the provisions of the Family Proceedings Rules 1981 so applied or incorporated) do not apply, the practice in relation to proceedings under the Domestic Protection Act 1982 will be governed by such of the applicable provisions of the District Courts Rules 1948 as are not inconsistent with the Act and these rules.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 10 March 1983.
These rules are administered in the Department of Justice.