

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.

- 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.

- 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.

- 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 on 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 by the respondent and comply with directions by the court regarding arrangements for transfer of specified personal property

- 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 weapons 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 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.