

Form 7

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Temporary protection order

*Section 124N(2)(b), Domestic Violence Act 1995*In the District Court at *[place]*No: *[number of proceeding]***Applicant***[Full name and address of person named in Police safety order for whose safety the order was issued]***Respondent***[Full name and address of person who the court is satisfied refused or failed to comply with the Police safety order]*The court makes a temporary protection order against *[full name of respondent]*.**Person(s) protected by the order**

This order protects the following person(s):

*[Full name of applicant]***[Full name of each child of the applicant's family]*

*Omit if it does not apply.

*The court also directs that the order applies for the benefit of the following person(s):

[Full name of each person in respect of whom the court makes a direction under section 16(2) of the Act]

*Omit if it does not apply.

Conditions of order**1 Standard conditions prohibiting domestic violence and contact**

It is a condition of this order that—

- (a) the respondent must not—
 - (i) physically or sexually abuse any protected person; or

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- (ii) threaten to physically or sexually abuse any protected person; or
 - (iii) damage, or threaten to damage, property of any protected person; or
 - (iv) engage, or threaten to engage, in other behaviour, including intimidation or harassment, that amounts to psychological abuse of any protected person; or
 - (v) encourage any person to engage in behaviour against any protected person if that behaviour, if engaged in by the respondent, would be prohibited by the order; and
- (b) unless the protected person and the respondent are living in the same dwellinghouse with the express consent* of the protected person (which may be withdrawn at any time), the respondent must not—
- (i) watch, loiter near, or prevent or hinder access to or from any protected person's place of residence, business, employment, educational institution, or any other place that any protected person visits often; or
 - (ii) follow any protected person about, or stop or accost any protected person in any place; or
 - (iii) without the protected person's express consent,* enter or remain on any land or building occupied by any protected person; or
 - (iv) if any protected person is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or
 - (v) make any other contact with any protected person (whether by telephone, electronic message, correspondence, or otherwise), except contact—
 - (A) that is reasonably necessary in any emergency; or
 - (B) that is permitted under any order or written agreement relating to the role of providing

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- day-to-day care for, or access to, or contact with, or custody of, any minor; or
- (C) that is permitted under any special condition of this protection order; or
 - (D) that is necessary for the purposes of attending a family group conference under the Children, Young Persons, and Their Families Act 1989.

*The court may specify, in a special condition of a protection order, a person who may consent or withdraw consent on a protected person's behalf.

2 Standard conditions relating to weapons

It is also a condition of this order that the respondent—

- (a) must not possess, or have under his or her control, any weapon; and
- (b) must not hold a firearms licence; and
- (c) must,—
 - (i) as soon as practicable after being served with a copy of this order, but in any case no later than 24 hours after that service; and
 - (ii) on demand made, at any time, by any member of the Police,—
surrender to a member of the Police—
 - (iii) any weapon in his or her possession, or under his or her control, whether or not the weapon is lawfully in his or her possession or under his or her control; and
 - (iv) any firearms licence held by him or her.

Note: The Domestic Violence Act 1995 defines a weapon as any firearm, airgun, pistol, restricted weapon, ammunition, or explosive, as those terms are defined in the Arms Act 1983.

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Omit paragraph 3 if it does not apply.

3 Special conditions

The court also imposes the following special conditions: [*specify*].

Unless otherwise stated, these conditions last for the duration of this order.

Omit paragraph 4 if it does not apply.

4 Attendance at programme

The court directs [*full name of respondent*] to attend the following programme: [*name of programme and programme provider*].

The respondent must attend the programme—

- *(a) for [*number*] sessions per month.
- *(b) for 1 session per month and for any other session or sessions per month that the programme provider from time to time specifies.
- *(c) for the number of sessions per month that the programme provider from time to time specifies.

*Select the paragraph that applies.

The respondent must attend the programme for the first time—

- *(a) on [*date, time*] at [*place*].
- *(b) on a date and at a time and place to be advised by the programme provider as soon as practicable.

*Select the paragraph that applies.

Omit the following 2 headings and paragraphs if they do not apply.

Direction that hearing be held

The court directs that there be a hearing in relation to the whole of this order/the following parts of this order*: [*specify*].

*Select one.

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I appoint [*date, time*] at the Family Court at [*place*] for this hearing.

Date:

Registrar:

Important information for respondent

Effect of temporary protection order

For this paragraph—

- *select statement A if the court has not directed that a hearing be held:*
- *select statement B if the court has directed that a hearing be held.*

Statement A

This order is a temporary order.

If you do nothing after being served, this order will automatically become a final order 3 months after the date on which it was made.

If you wish to dispute this order, you must notify the Family Court at [*place*] as soon as possible.

Statement B

This order is a temporary order.

The court has directed that a hearing be held in relation to the whole of this order/specified parts of this order* at the Family Court at [*place*].

*Select one.

This hearing will take place whether or not you wish to appear. If you wish to dispute any part of the order, you must notify the Family Court at [*place*] as soon as possible.

If you do nothing, the Family Court may make a final order in your absence/the parts of the order in relation to which a hearing is not required will become final 3 months after the date on which this order

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was made, and the Family Court may confirm the other parts of the order at the hearing*.

*Select one.

Effect of standard condition relating to weapons

The effect of this condition is that any firearms licence held by you is automatically suspended as soon as this order is made. If the order becomes final, the licence is automatically revoked. However, you may apply to the Family Court at [*place*] to modify or discharge this condition (*see below*).

If you do not surrender to a member of the Police all weapons in your possession or under your control, and your firearms licence, within 24 hours after being served with this order, or on demand made by a constable, the Police may use their powers under the Arms Act 1983 to enter your property without warrant and search for and seize the weapons. You may also be prosecuted for failing to comply with this order (*see below*).

Objection to direction to attend programme

The court has directed you to attend a programme. You have 5 days after you have been served with this order to notify the Family Court at [*place*] if you object to that direction.

If you do not make an objection within the 5-day period, and then fail to attend programme sessions, you may be prosecuted for failing to comply with this order (*see below*).

Prohibition on contact with protected person

The effect of this order is to prohibit you from having contact with any protected person in any of the ways set out in the order. This order may also contain special conditions relating to contact between you and a protected person. You must read the terms of the order very carefully to find out what contact you may or may not have with any protected person.

If the protected person has expressly consented to living in the same dwellinghouse with you, the prohibition on contact and any special

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condition that is inconsistent with living in the same dwellinghouse are suspended.

The protected person may withdraw that consent at any time. If that happens (and this order has not in the meantime been discharged or varied), you must comply with all the standard conditions and special conditions of the order.

Note that the special conditions of this order may specify who is entitled to consent (or withdraw consent) on behalf of a protected person.

Modification or discharge of this order

You or a protected person may apply to a Family Court at any time—

- (a) for the modification or discharge of the standard condition relating to weapons. (The Family Court may make a change to this standard condition only if it is satisfied that the condition, or a term of the condition, is not needed to protect the persons for whose benefit this order applies from further domestic violence);
- (b) for a variation or discharge of any special conditions of this order, or for the imposition of a new special condition;
- (c) for the variation or discharge of a direction to attend a programme, or for that direction to be made;
- (d) for this order to be discharged.

Consequences of breach of this order

You commit an offence if you breach the order by—

- (a) doing an act in contravention of this order; or
- (b) failing to comply with any condition in this order.

You have a defence to proceedings for this offence if you can prove that you had a reasonable excuse for breaching the order.

The maximum penalty for this offence is 2 years' imprisonment.

If a constable has good cause to suspect that you have breached this order, you may be arrested without warrant. Police bail is not available during the 24 hours immediately following an arrest. During that period, any bail application must be made to a Judge.

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Consequences of failing to comply with direction

You commit an offence if, without reasonable excuse, you fail on any occasion to comply with a direction to attend a programme.

The maximum penalty for this offence is 6 months' imprisonment or a fine not exceeding \$5,000.

Advice

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

Office hours

The office of a Family Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Important information for protected persons

Effect of temporary protection order

For this paragraph—

- *select statement A if the court has not directed that a hearing be held:*
- *select statement B if the court has directed that a hearing be held.*

Statement A

This order is a temporary order.

If the respondent does nothing after being served, this order will automatically become a final order 3 months after the date on which it was made. You will then be sent a copy of the final order. The respondent may, however, give notice that he or she wishes to dispute this order. In that case, a hearing will be held and you will be notified of the hearing date.

Statement B

This order is a temporary order.

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The court has directed that a hearing be held in relation to the whole of this order/specified parts of this order* at the Family Court at [*place*].

*Select one.

You are entitled to appear or be represented at the hearing to present your case to satisfy the Family Court at [*place*] that the order must be made final/the parts of the order in relation to which the hearing is required must be part of the final order. If the respondent does nothing, the parts of the order in relation to which a hearing is not required will become final 3 months after the date on which this order was made, and the Family Court may confirm the other parts of the order at the hearing*.

*Select one.

Respondent prohibited from contact with you

The effect of this order is to prohibit the respondent from having contact with you in any of the ways set out in the order. This order may also contain special conditions relating to contact between you and the respondent.

If you expressly consent to living in the same dwellinghouse with the respondent, the prohibition on contact and any special condition that is inconsistent with living in the same dwellinghouse are suspended. You may withdraw that consent at any time. If that happens (and this order has not in the meantime been discharged or varied), the respondent must comply with all the standard conditions and special conditions of the order.

Note that the special conditions of this order may specify who is entitled to consent (or withdraw consent) on behalf of a protected person.

Standard condition relating to weapons

The effect of this condition is that any firearms licence held by the respondent is automatically suspended as soon as this order is made. If the order becomes final, the licence is automatically revoked. How-

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ever, this condition may be modified or discharged by the Family Court (*see* below).

Attendance at programme

You may request to attend a programme, or that any child protected by the order attend a programme, or that both you and a child protected by the order attend a programme. If you wish to make such a request you may do so by contacting the Registrar of the Family Court.

Any other adult person protected by the order can also request to attend a programme by contacting the Registrar of the Family Court.

Modification or discharge of this order

You or the respondent may apply to a Family Court at any time—

- (a) for the modification or discharge of the standard condition relating to weapons. (The Family Court may make a change to this standard condition only if it is satisfied that the condition, or a term of the condition, is not needed to protect the persons for whose benefit this order applies from further domestic violence):
- (b) for a variation or discharge of any special conditions of this order, or for the imposition of a new special condition:
- (c) for the variation or discharge of a direction that the respondent attend a programme, or for that direction to be made:
- (d) for this order to be discharged.

If the respondent makes any of these applications, you will be notified and have an opportunity to dispute the application.

Consequences of breach of this order

The respondent commits an offence if he or she—

- (a) does any act in contravention of this order; or
- (b) fails to comply with any condition in this order.

The respondent will have a defence to proceedings for this offence if it can be proved that he or she had a reasonable excuse for breaching the order.

The maximum penalty for this offence is 2 years' imprisonment.

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If a constable has good cause to suspect that the respondent has breached the order, the respondent may be arrested without warrant. Police bail is not available during the 24 hours immediately following an arrest. During that period, the respondent may apply to a Judge for bail.

Consequences of failing to comply with direction

The respondent commits an offence if, without reasonable excuse, he or she fails on any occasion to comply with a direction to attend a programme.

The maximum penalty for this offence is 6 months' imprisonment or a fine not exceeding \$5,000.

Advice

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

Office hours

The office of a Family Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Schedule form 7: added, on 1 July 2010, by regulation 5 of the Domestic Violence (General) Amendment Regulations 2010 (SR 2010/121).

Marie Shroff,
Clerk of the Executive Council.

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