

DOMESTIC VIOLENCE ACT
(Cap. 28:05)

DOMESTIC VIOLENCE REGULATIONS, 2013
(Published on 8th November, 2013)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Application for an order
3. Notice to applicant
4. Variation and revocation of an order

SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Labour and Home Affairs by section 21 of the Domestic Violence Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Domestic Violence Regulations, 2013. Citation
2. (1) An application made in terms of section 7 (1) of the Act shall be in Form 1 set out in the Schedule. Application for an order
(2) An application referred to in subregulation (1) shall be accompanied by a draft order in Form 2 set out in the Schedule.
(3) Where an application is brought on behalf of an applicant by another person in terms of section 7 (6) of the Act, the affidavit referred to in section 7 (2) shall set out —
 - (a) the occupation of the person and capacity in which such person brings the application; and
 - (b) except in cases excluded by the provisions of section 7 (5) of the Act, the written consent of the applicant.
3. The person referred to in section 7 (6) of the Act and any other person making an application on behalf of an applicant shall — Notice to applicant
 - (a) issue to an applicant a written notice which contains the information provided in Form 3;
 - (b) read the notice or cause the notice to be read, and if reasonably possible, be in the official language of the applicant's choice;
 - (c) inquire from an applicant whether he or she —
 - (i) understands the contents of the notice, and
 - (ii) requires further information concerning the relief available in terms of the Act; and
 - (d) on request by an applicant, further explain to the best of his or her ability —
 - (i) any part of the notice which the applicant does not understand, and
 - (ii) the relief available to the applicant in terms of the Act.
4. An application to vary or set aside an order in terms of section 13 of the Act shall be in Form 4 set out in the Schedule. Variation and revocation of an order

SCHEDULE

Form 1
(reg. 2 (1))

APPLICATION FOR AN ORDER

1. PARTICULARS OF APPLICANT (*Survivor of domestic violence*)

Surname:	
Full Names:	
Sex:	
Level of Education: (<i>tick appropriate</i>)	Tertiary _____ Secondary _____ Primary _____ None _____
Omang/Passport Number/N/A (for minor):	
Date of Birth:	
Physical Residential Address:	
Postal Home Address:	
Home/Contact Telephone Number:	
Physical Work Address (include name of organisation):	
Postal Work Address:	
Work Telephone Number:	
Occupation:	
Nature of relationship with person who committed the act of domestic violence (Respondent):	

2. PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE APPLICANT (if applicable)

Surname:	
Full Names:	
Sex:	
Level of Education: (tick appropriate)	Tertiary _____ Secondary _____ Primary _____ None _____
Omang/Passport Number:	
Date of Birth:	
Physical Residential Address:	
Home Postal Address:	
Contact Telephone Number:	
Physical Work Address (include name of organisation):	
Postal Work Address:	
Work Telephone Number:	
Occupation:	
Capacity in which application is made:	
Nature of relationship with the applicant:	
State reason(s) why application is made on behalf of the applicant:	
Indicate whether written consent of applicant has been obtained and attached:	YES _____ NO _____

<p>If NO, indicate why there is no written consent from the applicant: (<i>tick the appropriate answer</i>)</p>	<p>Because the applicant is:</p> <p>(a) a minor under the age of 18 years (b) suffering from a mental disability (c) unconscious (d) under the influence of an intoxicating substance (e) Other reasons (Please specify): _____</p>
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3. PARTICULARS OF PERSON WHO COMMITTED ACT OF DOMESTIC VIOLENCE

(Hereafter called the Respondent) – In so far as such particulars are available

Surname:	
Full Names:	
Sex:	
Level of Education: (<i>tick appropriate</i>)	Tertiary _____ Secondary _____ Primary _____ None _____
Omang/Passport Number:	
Date of Birth:	
Physical Residential Address:	
Home Postal Address:	
Contact Telephone Number:	
Physical Work Address (include name of organisation):	
Postal Work Address:	
Work Telephone Number:	
Occupation:	

4. OTHER PERSONS AFFECTED BY DOMESTIC VIOLENCE BESIDES THE APPLICANT

(a) Particulars of children and adults:

Name:	Sex	Age:	Relationship to complainant

(b) How are the persons affected?

(c) Do any of these persons suffer from mental or physical disabilities? If so give details:

5. INFORMATION REGARDING ACTS OF DOMESTIC VIOLENCE

Give details regarding all incidents of domestic violence (physical, emotional, sexual or economic) and also indicate whether firearms or other dangerous weapons were used, what injuries have been sustained and whether medical treatment was obtained:

6. INFORMATION REGARDING URGENCY OF APPLICATION

Submit the reasons why the court has to consider the application as a matter of urgency and why undue hardship may be suffered if the application is not dealt with immediately:

7. SUGGESTED TERMS OF AN ORDER

It is requested that the Respondent must be ordered (Mark appropriate box(es) and complete where necessary):

(a)	Not to commit any act of domestic violence	
(b)	Not to get the help of any other person to commit any act of domestic violence	
(c)	Not to enter the shared residence situated at	
(d)	Not to enter a specified part of the shared residence, namely	
(e)	Not to enter the applicant's residence or to come within _____ metres of the applicant's residence situated at	

(f)	Not to enter the applicant's place of employment namely	
(g)	Not to prevent the applicant or any child who ordinarily live(s) or lived in the shared residence from entering or remaining in the shared residence or school or any part thereof.	
(h)	Not to make any phone calls or send any form of electronic or telephonic messages to the applicant or contact family/friends/workmates of the applicant	
(i)	Not to harass family/friends of the applicant	
(j)	Not to come within _____metres of the applicant	
(k)	Not to commit any other act, namely	

8. SUGGESTED ADDITIONAL ORDERS

It is also requested that the Court must order that (mark appropriate box(es) and complete where necessary):

(a)	A Member of the Botswana Police Service is to accompany the applicant to assist with arrangements regarding the collection of the applicant's property set out in Personal Property Table below as well as access to places of safety or shelters.	
(b)	A member of the Botswana Police Service is to seize the following arm(s) or dangerous weapon(s) in the possession of the respondent:	
(c)	The Respondent is to pay the following rent or mortgage payments or other payments as stipulated:	

(d)	The Respondent is not to have any contact with the following child or children	
(e)	The Responded is granted the following contact with the above-mentioned child or children.....	
(f)	The physical address of the Applicant's residence is not to be disclosed to the Respondent	
(g)	The applicant or respondent or any other persons affected should go for counselling.....	
(h)	Other conditions requested	

PERSONAL PROPERTY

<i>Property Description:</i>	<i>Grounds on which property is considered to be personal property:</i>	<i>Address where property is kept:</i>

I am likely to report a breach of an order at the _____ Police Station.

DEPONENT

(Person who applies for an order)

DATE

CERTIFICATION *(for official use)*

I hereby certify that before administering the *oath/taking the affirmation I asked the Deponent the following questions and noted *her/his answers in *her/his presence as indicated below:

(a) Do you know and understand the contents of the above declaration?

Answer _____

(b) Do you have any objection taking the prescribed oath?

Answer _____

(c) Do you consider the prescribed oath to be binding on our conscience?

Answer _____

I hereby certify that the Deponent has acknowledged that *she/he knows and understands the contents of this declaration which was *sworn to / affirmed before me, and the Deponent's signature/thumb print/mark was placed thereon in my presence.

Dated at _____ this _____ day of _____ 20_____

Commissioner of Oaths

Full Names _____

Designation _____

Business address _____

Form 2
(reg. 2 (2))

DRAFT ORDER

IN THE MAGISTRATE COURT FOR THE DISTRICT OF _____

HELD AT _____ APPLICATION NUMBER ____/____

In the matter between:

APPLICANT:

Omang/Passport Number: _____ Date of Birth: _____

AND

RESPONDENT: _____

Omang/Passport Number: _____ Date of Birth: _____

1. PARTICULARS OF RESPONDENT

Home Address (Physical & Postal): _____

Telephone Number: _____

Work Address (Name of Organisation, Physical & Postal addresses):

Telephone Number: _____

2. PARTICULARS OF APPLICANT

Occupation: _____

The Applicant has applied for an order against the Respondent as per the affidavit(s) and record of oral evidence (if any) attached, which application has been considered by the Court.

3. ORDER BY COURT AND PARTICULARS OF ORDER

3.1 The Court orders that:

3.1.1 * The application for an Order is dismissed; or

3.1.2 * An interim, a restraining, a tenancy or an occupancy order is granted; and the respondent is ordered —

3.1.2.1 *not to commit the following act(s) of domestic violence —

3.1.2.2 *not to enlist the help of another person to commit the act(s) of domestic violence specified in paragraph 3.1.2.1;

3.1.2.3 *not to enter the shared residence at

3.1.2.4 * not to enter the following parts of the shared residence at

3.1.2.5 *not to enter the applicant’s residence at _____

3.1.2.6 *not to enter the applicant’s place of employment at _____

3.1.2.7 *not to prevent the complainant or any child who ordinarily live (s) or lived in the shared residence at _____ from entering or remaining in the shared residence or any part thereof.

3.1.2.8 * not to commit any of the following acts: _____

3.1.2.9 * to make rents or mortgage payments in the sum of P _____
per month/annum.

3.1.2.10 * to pay the sum of P _____ to the applicant as monetary relief for _____

4. ADDITIONAL ORDERS

4.1 It is further ordered that;

4.1.1 *A member of the Botswana Police Service accompanies the applicant to the following residence in order to assist with arrangements regarding the collection of personal property, i.e. —

4.1.2 *A member of the Botswana Police Service at _____
seizes the following arm(s) or dangerous weapon (s) in the possession of the respondent, i.e. —

4.1.3 The applicant's physical address not to be disclosed to the respondent;

4.1.4* The respondent is ordered not to have any contact with the following child/children:

4.1.5 *The respondent is allowed contact with the following child/children —

on the following basis —

4.1.6 * The applicant or respondent or any other persons affected should go for counselling

4.2 Warrant is authorized for the arrest of the respondent, the execution of which is suspended subject to the respondent's compliance with the provisions of the Order as stated above.

4.3 A copy of this order and the warrant of arrest must be forwarded to the _____ Police Station, once this interim order has been served on the respondent.

5. DATE OF CONFIRMATION OF AN ORDER

5.1 The respondent is hereby informed of his/her right to appear in the Magistrate Court at _____ on the _____ day of _____ at 08.30 in order to give reasons why the interim order should not be confirmed and made final; and of his/her right to have the matter heard on an earlier date after at least 24 hours written notice to the applicant and the aforesaid court.

5.2 The respondent is further informed that if he or she does not appear in court on the above-mentioned date and time, and the court is satisfied that this notice was properly served on him or her and is satisfied that he or she committed or is committing an act of domestic violence, this order will be confirmed and made final.

MAGISTRATE

***Delete whichever is not applicable**

DATE

Form 3
(reg. 3 (a))

INFORMATION NOTICE TO APPLICANT BY SERVICE PROVIDERS OR ANY OTHER PERSON

1. The applicant may lay a criminal complaint against the person who committed the act of domestic violence (hereafter called the respondent) if the conduct of the respondent constitutes a criminal offence which will be investigated by the police.
2. The applicant may apply, on any day at any time, for a protection order at the Magistrate's Court in whose area —
 - (a) the applicant resides, carries on business or is employed, permanently or temporarily;
 - (b) the respondent resides, carries on business or is employed; and
 - (c) the act of domestic violence occurred.
3. An application form can be provided if the applicant wants to apply for an order. It is not necessary to lay a charge in order for the applicant to get a protection order.
4. The Court will consider the application and may thereafter issue an interim order which will only come into effect —
 - (a) immediately; and
 - (b) For a certain period of time.
5. After such period of time the court will consider to issue a permanent order.
6. The applicant may request the Court to prohibit the respondent from —
 - (a) committing any act of domestic violence;
 - (b) enlisting the help of another to commit any act of domestic violence;
 - (c) entering the applicant's home or the shared residence or any part thereof;
 - (d) entering a specified part of the shared residence;
 - (e) entering the applicant's workplace;
 - (f) preventing the applicant or any child who normally lives in the shared residence from entering; and
 - (g) Committing any other act determined by the Court.
7. The applicant may request the Court not to disclose his/her address to the respondent. The Court may also, in order to protect the applicant and to provide for the applicant's safety, health and wellbeing —
 - (a) order that the respondent pay rent, mortgage or other monetary relief (such as loss of earnings and medical expenses);
 - (b) refuse the respondent contact with the applicant's children;
 - (c) order the seizure of any arm or dangerous weapon in possession or under the control of the respondent;
 - (d) order that a member of the Botswana Police Service accompany the applicant to assist him or her with the collection of his or her personal property; and
 - (e) Impose any other condition it deems reasonably necessary.
8. The Court will issue a warrant of arrest for the respondent if the respondent fails to comply with any provision of the protection order.
9. The order may be varied or revoked.

WARNING: It is a criminal offence if any person knowingly makes a false allegation against the respondent in an affidavit.

Form 4
(reg. 4)

APPLICATION FOR VARIATION AND REVOCATION OF AN ORDER

(A copy of this form must be forwarded to the other party)

IN THE MAGISTRATE COURT FOR THE DISTRICT OF _____
HELD AT _____ APPLICATION NUMBER _____ / _____
In the matter between:
APPLICANT: _____
Omang/Passport Number: _____ Date of Birth: _____
AND
RESPONDENT: _____
Omang/Passport Number: _____ Date of Birth: _____

PART A : AFFIDAVIT <i>(To be completed by applicant)</i>

2. PARTICULARS OF APPLICANT

Surname:	
Full Names:	
Sex:	
Level of Education: <i>(tick appropriate)</i>	Tertiary _____ Secondary _____ Primary _____ None _____
Omang/Passport Number:	
Date of Birth:	
Physical Residential Address:	
Postal Home Address:	

Home/Contact Telephone Number:	
Physical Work Address:	
Postal Work Address:	
Work Telephone Number:	

2. PARTICULARS OF RESPONDENT

Surname:	
Full Names:	
Sex:	
Level of Education: (<i>tick appropriate</i>)	Tertiary _____ Secondary _____ Primary _____ None _____
Omang/Passport No:	
Date of birth:	
Physical Residential Address:	
Postal Home Address:	
Home/Contact Telephone Number:	
Physical Work Address:	
Postal Work Address:	
Work Telephone No:	

3. PARTICULARS OF AN ORDER

An order was granted on:	(Date)
In the Magistrate's Court at:	(Name of Respondent)
Against:	

4. APPLICATION REGARDING AN ORDER

I wish to apply for:	*(a) The revocation of the above-mentioned order *(b) The variation of the order as follows – _____ _____ _____
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Reasons for my requests are as follows:	_____ _____ _____ _____ _____

Signature of Deponent

Date

<p>PART B: CERTIFICATION <i>(for official use)</i></p>

I hereby certify that before administering the *oath / taking the affirmation I asked the Deponent the following questions and noted *her/his answers in *her/his presence as indicated below:

(a) Do you know and understand the contents of the above declaration?

Answer _____

(b) Do you have any objection taking the prescribed oath?

Answer _____

(c) Do you consider the prescribed oath to be binding on our conscience?

Answer _____

I hereby certify that the Deponent has acknowledged that *she/he knows and understands the contents of this declaration which was *sworn to/affirmed before me, and the Deponent's signature/thumb print/mark was placed thereon in my presence.

Dated at _____ this _____ day of _____ 20_____

Commissioner of Oaths

Full Names _____

Designation _____

Business address _____

***Delete whichever is not applicable**

MADE this 25th day of October, 2013.

EDWIN J. BATSHU,
Minister of Labour and Home Affairs.

AGC 9/1/218 I (19)