



**MINISTER  
JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
REPUBLIC OF SOUTH AFRICA**

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Mr M J Mahlangu  
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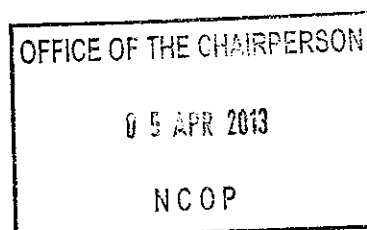
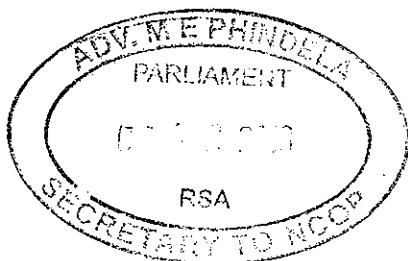
Dear Mr Mahlangu

**SUBMISSION OF DOCUMENTS TO PARLIAMENT IN TERMS OF THE PROTECTION FROM  
HARASSMENT ACT, 2011**

The Protection of Harassment Act, 2011 (Act 17 of 2011) (the Act), provides for the issuing of a protection order against harassment and matters connected therewith. In terms of section 23 of the Act, the Act shall come into operation on a date fixed by the President by proclamation in the *Gazette*. I have advised the President to put the Act into operation with effect from 27 April 2013.

In terms of section 19(1) of the Act, the Minister of Justice and Constitutional Development may make regulations to give practical effect to the Act. The regulations must, in terms of section 19(2)(a) of the Act, be submitted to Parliament prior to their publication in the *Gazette*. The regulations will not result in expenditure for the State and consultation with the Cabinet member responsible for finance is therefore not necessary as is required in terms of section 19(2)(b) of the Act. The regulations, which are attached as Annexure A, are hereby submitted to the National Council of Provinces in terms of section 19(2)(a) of the Act, before they are published in the *Gazette*.

In terms of section 20(1)(a) of the Act, the National Director of Public Prosecutions, in consultation with the Minister of Justice and Constitutional Development, and after consultation with the Directors of Public Prosecutions, must issue directives regarding the institution of prosecutions in respect of any offence arising out of this Act. In terms of section 20(1)(b) of the Act, the Minister of Justice and Constitutional Development must submit any directive issued in terms of section 20(1)(a) of the Act, to





Parliament before those directives take effect. The directives which the National Director of Public Prosecutions intends to issue, which are attached as Annexure B, and with which I agree, are hereby submitted to the National Council of Provinces as is required by section 20(1)(b) of the Act.

In terms of section 20(3)(a) of the Act, the Director-General: Justice and Constitutional Development must issue directives which clerks of the court must comply with in the execution of their functions in terms of this Act, and any directives so issued must be published in the *Gazette*. In terms of section 20(3)(b) of the Act, the Minister of Justice and Constitutional Development must submit any directives issued in terms of section 20(3)(a) of the Act to Parliament before those directives take effect. The directives, which are attached as Annexure C, are hereby submitted to the National Council of Provinces in terms of section 20(3)(b) of the Act.

With kind regards

*J. T. Raedebe*  
**J T RADEBE, MP**  
**MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

Date: *18/03/13*.....

# ANNEXURE A



## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2013

### REGULATIONS IN TERMS OF THE PROTECTION FROM HARASSMENT ACT, 2011

The Minister of Justice and Constitutional Development has under section 19 of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), made the regulations in the Schedule.

#### SCHEDULE

##### Content of Regulations

**Regulation:**

- |               |  |
|---------------|--|
| Regulation 1: | Definitions  |
| Regulation 2: | Manner in which clerk of court must inform complainant or person not represented by legal representative (Section 2(2))                                |
| Regulation 3: | Manner of applying for protection order (Section 2(1))   |
| Regulation 4: | Issuing of interim protection order and manner of service (Section 3(2) and (3))   |
| Regulation 5: | Notice to show cause and manner of service of notice, certified copies of application and supporting affidavits (Section 3(4))                         |
| Regulation 6: | Manner of service of interim protection order and warrant of arrest on complainant (Section 3(7))  |
| Regulation 7: | Form of direction directing electronic communications service provider to furnish information to court and manner of service (Section 4(1)(b) and (2)) |
| Regulation 8: | Manner in which electronic communications service provider must  |

- furnish information to court and form of affidavit to furnish particulars to court (Section 4(1)(b)) .
- Regulation 9: Application by electronic communications service provider for extension of period within which information must be provided to court or cancellation of direction and form of affidavit (Section 4(3)(b))
- Regulation 10: Manner of requesting additional evidence by way of affidavit from electronic communications service provider and form of affidavit by electronic communications service provider (Section 4(4)(b))
- Regulation 11: Form and manner of informing electronic communications service provider of outcome of application (Section 4(4)(d))
- Regulation 12: Manner in which electronic communications service providers must bring change of particulars to the attention of Director-General and list of electronic communications service providers (Section 4(7)(b) and (c))
- Regulation 13: Form of direction directing station commander to determine name and address or other information of respondent and manner of service (Section 5(1)(b) and (2))
- Regulation 14: Form of affidavit by member of South African Police Service and manner to furnish particulars to court (Section 5(3)(a))
- Regulation 15: Application by station commander for extension of period within which information must be provided to court or cancellation of direction and form of affidavit (Section 5(3)(b))
- Regulation 16: Manner of requesting additional evidence by way of affidavit from station commander and form of affidavit (Section 5(4)(b))
- Regulation 17: Form and manner of informing station commander of outcome of application (Section 5(4)(d))
- Regulation 18: Form of affidavit by member of South African Police Service to provide information to court (Section 6(3)(b))
- Regulation 19: Subpoena of person as witness or to provide book, document or object (Section 7(1))
- Regulation 20: Form of final protection order and service (Section 9(1), (4) and (6))
- Regulation 21: Manner of forwarding protection order and warrant of arrest to

- police station (Section 9(7))
- Regulation 22: Form of warrant of arrest (Section 11(1)(a))
- Regulation 23: Form of affidavit for further warrant of arrest (Section 11(3))
- Regulation 24: Form of affidavit regarding contravention of protection order (Section 11(4)(a))
- Regulation 25: Form of written notice to respondent to appear before court (Section 11(4)(c))
- Regulation 26: Application for variation or setting aside of protection order (Section 13(1))
- Regulation 27: Notice of variation or setting aside of protection order (Section 13(3))
- Regulation 28: Service of documents
- Regulation 29: Service, filing or forwarding of documents by facsimile
- Regulation 30: Short title and commencement

**Annexure:**

- Form 1: Information notice to complainant or person who applies for protection order on behalf of complainant (Regulation 2)
- Form 2: Application for protection order (Regulation 3)
- Form 3: Interim protection order (Regulation 4)
- Form 4: Notice to respondent to show cause (Regulation 5)
- Form 5: Direction to electronic communications service provider to furnish information to court (Regulation 7)
- Form 6: Affidavit by electronic communications service provider to furnish information to court (Regulation 8(3))
- Form 7: Application by electronic communications service provider for extension of period within which information must be provided to court or cancellation of direction (Regulation 9)
- Form 8: Request for additional evidence by way of affidavit from electronic communications service provider (Regulation 10(1))
- Form 9: Affidavit by electronic communications service provider to furnish additional evidence to court (Regulation 10(4))
- Form 10: Decision of court (Regulation 11)
- Form 11: Direction to station commander to investigate complaint of harassment in

- order to determine name and address or any other information which may be required to identify or trace respondent (Regulation 13)
- Form 12: Affidavit by member of South African Police Service to furnish information to court (Regulation 14)
- Form 13: Application by station commander for extension of period within which information must be provided to court or cancellation of direction (Regulation 15)
- Form 14: Request for additional evidence (Regulation 16(1))
- Form 15: Affidavit by station commander to furnish additional information to court (Regulation 16(4))
- Form 16: Decision of court (Regulation 17)
- Form 17: Affidavit by member of South African Police Service to furnish information to court (Regulation 18)
- Form 18: Subpoena (Regulation 19)
- Form 19: Final protection order (Regulation 20(1))
- Form 20: Warrant of arrest (Regulation 22)
- Form 21: Affidavit for purposes of further warrant of arrest (Regulation 23)
- Form 22: Affidavit regarding contravention of protection order (Regulation 24)
- Form 23: Written notice to appear before court (Regulation 25)
- Form 24: Application for variation or setting aside of protection order (Regulation 26)
- Form 25: Notice of variation or setting aside of protection order (Regulation 27)
- Form 26: Statement to be completed by person who serves, files or forwards document by facsimile (Regulation 29)

### **Definitions**

1. In these regulations, any word or expression to which a meaning has been assigned in the Act, bears that meaning and, unless the context otherwise indicates — “the Act” means the Protection from Harassment Act, 2011 (Act No. 17 of 2011).

### **Manner in which clerk of court must inform complainant or person not represented by legal representative (Section 2(2))**

2. For purposes of section 2(2) of the Act, the clerk of the court must, if the complainant or person referred to in section 2(3)(a) of the Act is not represented by a

legal representative and before the complainant or such person applies for a protection order —

- (a) hand a form which corresponds substantially with Form 1 of the Annexure to the complainant or such person which must, if reasonably possible, be in the official language of the complainant's or such person's choice;
- (b) read out or cause Form 1 of the Annexure to be read out to the complainant or such person if the complainant or such person is unable to read the notice;
- (c) inquire from the complainant or such person whether he or she understands the contents of Form 1 of the Annexure;
- (d) further explain, to the best of his or her ability, to the complainant or such person on request any part of Form 1 of the Annexure which the complainant or such person does not understand; and
- (e) obtain a written acknowledgement from the complainant or such person that there has been compliance with this regulation.

**Manner of applying for protection order (Section 2(1))**

3. A complainant or person on behalf of a complainant must in writing, in the form of an affidavit which must correspond substantially with Form 2 of the Annexure, apply for a protection order.

**Issuing of interim protection order and manner of service (Section 3(2) and (3))**

4. (1) An interim protection order in terms of section 3(2) of the Act must correspond substantially with Form 3 of the Annexure.

(2) The interim protection order must be served on the respondent in the manner prescribed by regulation 28.

**Notice to show cause and manner of service of notice, certified copies of application and supporting affidavits (Section 3(4))**

5. (1) The notice in terms of section 3(4) of the Act must correspond substantially with Form 4 of the Annexure.

(2) The notice and certified copies of the application and supporting affidavits must be served on the respondent in the manner prescribed by regulation 28.

**Manner of service of interim protection order and warrant of arrest on complainant (Section 3(7))**

6. The certified copies of the interim protection order and original warrant of arrest must be served on the complainant in the manner prescribed by regulation 28.

**Form of direction directing electronic communications service provider to furnish information to court and manner of service (Section 4(1)(b) and (2))**

7. (1) A direction in terms of section 4(1)(b) of the Act must correspond substantially with Form 5 of the Annexure.

(2) The direction must be served by the clerk of the court on the electronic communications service provider in the manner prescribed by regulation 29.

(3) After the service of the direction has been effected in terms of subregulation (2), the clerk of the court must file the documents contemplated in regulation 29(3) on the court file.

**Manner in which electronic communications service provider must furnish information to court and form of affidavit to furnish particulars to court (Section 4(1)(b))**

8. (1) On receipt of a direction, an electronic communications service provider must complete the affidavit contemplated in subregulation (3) and file the affidavit with the clerk of the court in the manner prescribed by regulation 29.

(2) The clerk of the court who receives the affidavit must file the affidavit on the court file.

(3) An affidavit in terms of section 4(1)(b) of the Act must be in a form which corresponds substantially with Form 6 of the Annexure.

**Application by electronic communications service provider for extension of period within which information must be provided to court or cancellation of direction and form of affidavit (Section 4(3)(b))**

9. (1) An application by an electronic communications service provider for the extension of the period within which the information must be provided to the court or for the cancellation of the direction, in terms of section 4(3)(b) of the Act, must be made in the form of an affidavit which corresponds substantially with Form 7 of the Annexure.



(2) The application must be filed with the clerk of the court in the manner prescribed by regulation 29.

(3) The clerk of the court must on receipt of the application submit it to the magistrate for consideration.

**Manner of requesting additional evidence by way of affidavit from electronic communications service provider and form of affidavit by electronic communications service provider (Section 4(4)(b))**

10. (1) A request for additional evidence referred to in section 4(4)(b) of the Act must correspond substantially with Form 8 of the Annexure.

(2) The request must be served by the clerk of the court identified by the court on an electronic communications service provider in the manner prescribed by regulation 29.

(3) After the service of the request has been effected in terms of subregulation (2), the clerk of the court must file the documents contemplated in regulation 29(3) on the court file.

(4) On receipt of a request, the electronic communications service provider must furnish the requested evidence by way of an affidavit in a form which corresponds substantially with Form 9 of the Annexure, which must be filed with the clerk of the court in the manner prescribed by regulation 29.

(5) The clerk of the court must on receipt of the requested additional evidence submit it to the magistrate for consideration.

**Form and manner of informing electronic communications service provider of outcome of application (Section 4(4)(d))**

11. (1) The court must inform the electronic communications service provider of the outcome of an application in terms of section 4(4)(d) of the Act on a form which corresponds substantially with Form 10 of the Annexure.

(2) The completed Form 10 must be served by the clerk of the court identified by the court on an electronic communications service provider in the manner prescribed by regulation 29.

(3) After the service of Form 10 has been effected in terms of subregulation (2), the clerk of the court must file the documents contemplated in regulation 29(3) on the court file.

**Manner in which electronic communications service providers must bring change of particulars to the attention of Director-General and list of electronic communications service providers (Section 4(7)(b) and (c))**

12. (1) An electronic communications service provider must, in writing to the Director-General: Justice and Constitutional Development, bring any change of particulars referred to in section 4(7)(a) of the Act to his or her attention.

(2) The list referred to in section 4(7) of the Act, and any subsequent amendments made thereto, must be —

- (a) made available on the internal website of the Department of Justice and Constitutional Development; and
- (b) brought to the attention of all courts by means of a Departmental communication.

**Form of direction directing station commander to determine name and address or other information of respondent and manner of service (Section 5(1)(b) and (2))**

13. (1) A direction in terms of section 5(1)(b) of the Act must correspond substantially with Form 11 of the Annexure.

(2) The direction must be completed in duplicate and the original must be served by the clerk of the court or sheriff identified by the court in terms of regulation 28.

(3) After the service of the direction has been effected in terms of subregulation (2), paragraph 9 on the duplicate original of Form 11 must be completed, as the circumstances require —

- (a) by the clerk of the court who must file the form on the court file; or
- (b) by the sheriff who must hand the form to the clerk of the court, who must file the form on the court file.

**Form of affidavit by member of South African Police Service and manner to furnish particulars to court (Section 5(3)(a))**

14. (1) An affidavit in terms of section 5(3)(a) of the Act must correspond substantially with Form 12 of the Annexure.

(2) The affidavit referred to in subregulation (1) must be filed with the clerk of the court by delivering the affidavit in duplicate to him or her personally.

(3) The clerk of the court must acknowledge receipt on the duplicate original of the affidavit and hand such duplicate original back to the person who filed the affidavit with the clerk of the court.

(4) The clerk of the court who receives the affidavit must file the affidavit on the court file.

**Application by station commander for extension of period within which information must be provided to court or cancellation of direction and form of affidavit (Section 5(3)(b))**

15. (1) An application by a station commander for the extension of the period within which the information must be provided to the court or for the cancellation of the direction, in terms of section 5(3)(b) of the Act, must be made in the form of an affidavit which corresponds substantially with Form 13 of the Annexure.

(2) The application must be filed with the clerk of the court –

- (a) by delivering the application to the clerk of the court personally; or
- (b) by filing the application in the manner prescribed by regulation 29 with the clerk of the court identified in the direction.

(3) If the application is filed with the clerk of the court in terms of subregulation (2)(a), the clerk of the court must acknowledge receipt on the duplicate original of the affidavit and hand such duplicate original back to the person who filed the affidavit with the clerk of the court.

(4) The clerk of the court must on receipt of the application submit it to the magistrate for consideration.

**Manner of requesting additional evidence by way of affidavit from station commander and form of affidavit (Section 5(4)(b))**

16. (1) A request for additional evidence in terms of section 5(4)(b) of the Act must correspond substantially with Form 14 of the Annexure.

(2) The request must be completed in duplicate and the original must be served by the the clerk of the court or sheriff identified by the court in the manner prescribed by regulation 28.

(3) After service of the request for additional evidence has been effected in terms of subregulation (2), paragraph 6 of the duplicate original of Form 14 must be completed, as the circumstances require —

- (a) by the clerk of the court who must file the duplicate original of the request on the court file; or
- (b) by the sheriff who must hand the duplicate original of the request to the clerk of the court, who must file the form on the court file.

(4) On receipt of the request, the station commander must furnish the requested evidence by way of an affidavit in a form which corresponds substantially with Form 15 of the Annexure, which must be filed with the clerk of the court —

- (a) by delivering the affidavit to the clerk of the court personally; or
- (b) by filing the affidavit in the manner prescribed by regulation 29 with the clerk of the court identified in the direction.

(5) If the affidavit is filed with the clerk of the court in terms of subregulation (4)(a), the clerk of the court must acknowledge receipt on the duplicate original of the affidavit and hand the duplicate original back to the person who filed the affidavit with the clerk of the court.

(6) The clerk of the court must on receipt of the requested additional evidence submit it to the magistrate for consideration.

**Form and manner of informing station commander of outcome of application (Section 5(4)(d))**

17. (1) The court must inform the station commander of the outcome of an application in terms of section 5(3)(b) of the Act on a form which corresponds substantially with Form 16 of the Annexure.

(2) The completed Form 16 must be served by the clerk of the court identified by the court on a station commander in the manner prescribed by regulation 29.

(3) After the service of Form 16 has been effected in terms of subregulation (2), the clerk of the court must file the documents contemplated in regulation 29(3) on the court file.

**Form of affidavit by member of South African Police Service to provide information to court (Section 6(3)(b))**

18. (1) An affidavit in terms of section 6(3)(b) of the Act must be in a form which corresponds substantially with Form 17 of the Annexure.

(2) The affidavit must be filed with the clerk of the court by delivering

the affidavit in duplicate to him or her personally, at the request of the complainant or clerk of the court, when the complainant or person applies for an interim protection order in terms of section 2 of the Act.

(3) The clerk of the court must acknowledge receipt on the duplicate original of the affidavit and hand the duplicate original back to the person who delivered the affidavit to the clerk of the court.

**Subpoena of person as witness or to provide book, document or object (Section 7(1))**

19. (1) A subpoena in terms of section 7(1) of the Act must correspond substantially with Form 18 of the Annexure.

(2) After the court has issued the subpoena, the original of the subpoena must be served upon the person affected thereby in the manner prescribed by law for the service of process in Magistrates' Courts.

(3) The court must identify and order a person to hand the subpoena to the person who is authorised to serve process.

(4) The document which serves as proof of service must, together with the duplicate original subpoena, without delay be furnished to the clerk of the court who must file such documents on the court file.

**Form of final protection order and service (Section 9(1), (4) and (6))**

20. (1) A final protection order in terms of section 9(1) or (4) of the Act must correspond substantially with Form 19 of the Annexure.

(2) The service of –

(a) the original protection order on the respondent, in terms of section 9(6)(a) of the Act; and

(b) a certified copy of the protection order and the warrant of arrest on the complainant, in terms of section 9(6)(b) of the Act,

must take place in the manner prescribed by regulation 28.

**Manner of forwarding protection order and warrant of arrest to police station (Section 9(7))**

21. (1) In terms of section 9(7) of the Act certified copies of the protection order and warrant of arrest must be forwarded by the clerk of the court to the police

station of the complainant's choice —

- (a) in the manner prescribed by regulation 29; or
- (b) by sending certified copies thereof by registered post.

(2) If the forwarding of certified copies of the protection order and warrant of arrest have been effected —

- (a) in terms of subregulation (1)(a), the clerk of the court must file the documents contemplated in regulation 29(3) on the court file; or
- (b) in terms of subregulation (1)(b), the clerk of the court must—
  - (i) file a note to this effect on the court file; and
  - (ii) require that proof of receipt thereof be returned to him or her by the relevant postal authority.

#### **Form of warrant of arrest (Section 11(1)(a))**

22. The warrant of arrest in terms of section 11(1)(a) of the Act must correspond substantially with Form 20 of the Annexure.

#### **Form of affidavit for further warrant of arrest (Section 11(3))**

23. An affidavit in terms of section 11(3) of the Act for obtaining a second or further warrant of arrest must be in a form which corresponds substantially with Form 21 of the Annexure.

#### **Form of affidavit regarding contravention of protection order (Section 11(4)(a))**

24. An affidavit referred to in section 11(4)(a) of the Act in which it is stated that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order must be in a form which corresponds substantially with Form 22 of the Annexure.

#### **Form of written notice to respondent to appear before court (Section 11(4)(c))**

25. The written notice in terms of section 11(4)(c) of the Act calling on the respondent to appear before a court on a charge of committing an offence referred to in section 18(1)(a) of the Act must correspond substantially with Form 23 of the Annexure.

#### **Application for variation or setting aside of protection order (Section 13(1))**

26. (1) An application for the variation or setting aside of a protection order in terms of section 13(1) of the Act, must be made on a form which corresponds substantially with Form 24 of the Annexure.

(2) The application in terms of subregulation (1) must be filed with the clerk of the court where the protection order was issued.

(3) The application referred to in subregulation (1) must be served on the other party by the clerk of the court by registered post in accordance with regulation 28.

#### **Notice of variation or setting aside of protection order (Section 13(3))**

27. (1) The notice of the variation or setting aside of a protection order in terms of section 13(3) of the Act must correspond substantially with Form 25 of the Annexure.

(2) The notice referred to in subregulation (1) must be forwarded by the clerk of the court to the complainant and respondent by—

- (a) registered post; or
- (b) handing it to them personally.

(3) If the notice was forwarded in terms of—

- (a) subregulation (2)(a), the clerk of the court must—
  - (i) file a note to this effect on the court file; and
  - (ii) require that proof of receipt thereof be returned to him or her by the relevant postal authority; or
- (b) subregulation (2)(b), the clerk of the court must—
  - (i) endorse a copy of the notice to this effect; and
  - (ii) obtain the signature of the person to whom the notice was handed on the copy of the notice contemplated in paragraph (b)(i).

#### **Service of documents**

28. (1) Service of any document in terms of the Act or these regulations, except where the Act or regulations provide otherwise, must be effected immediately by—

- (a) the clerk of the court by handing or presenting for handing over a certified copy of the document to the person on whom the document is to be served or by sending a certified copy of the document to that person by registered post and

- endorsing the original document to this effect;
- (b) the sheriff in terms of the provisions of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and rules published in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985); or
  - (c) a peace officer in terms of the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), relating to the service of subpoenas.

(2) The clerk of the court sending a copy of the document by registered post in terms of subregulation (1)(a) to the person on whom the document is to be served, must require that proof of receipt thereof be returned to him or her by the relevant postal authority.

(3) A person authorised to effect service in terms of subregulation (1), who is not a member of the South African Police Service, may, in any case where resistance to the service of a document is encountered or is reasonably anticipated, request a member of the South African Police Service to assist him or her with the service of any document provided for in the Act and these regulations.

(4) Where the court is satisfied that service cannot be effected in the manner prescribed by this regulation, or otherwise considers it necessary or expedient, it may make an order allowing service to be effected in a manner specified in such an order.

### **Service, filing or forwarding of documents by facsimile**

29. (1) The service, filing or forwarding of a document by facsimile is effected by sending the document to a facsimile number of a person.

(2) The person sending the document by facsimile to a person in terms of subregulation (1) must —

- (a) obtain a transmission verification report as to whether the document was successfully transmitted to the facsimile number of the other person;
- (b) phone the person to which the document was sent by facsimile to enquire whether the facsimile was received by him or her; and
- (c) complete a statement which corresponds substantially with Form 26 of the Annexure.

(3) The document referred to in subregulation (1), the transmission verification report in terms of subregulation (2)(a) and the statement in subregulation (2)(c) must be kept as proof of service, filing or forwarding.



(4) Where the court is satisfied that service, filing or forwarding of a document cannot be effected in the manner prescribed by this regulation, or otherwise considers it necessary or expedient, it may make an order allowing for the service, filing or forwarding of a document to be effected in a manner specified in such an order.

**Short title and commencement**

30. These regulations are called the Protection from Harassment Regulations, 2013, and come into operation on 27 April 2013.

## ANNEXURE

## FORM 1

## [Regulation 2]

**INFORMATION NOTICE TO COMPLAINANT OR PERSON WHO APPLIES FOR  
PROTECTION ORDER ON BEHALF OF COMPLAINANT**  
SECTION 2(2) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO.  
17 OF 2011)

1. This notice explains —
  - (a) the relief that is available in terms of the Protection from Harassment Act, 2011; and
  - (b) the right of the complainant to also lodge a criminal complaint against the respondent.
  
2. You will be required to sign this notice to confirm that there has been compliance with section 2(2) of the Protection from Harassment Act, 2011, and regulation 2 of the Protection from Harassment Regulations, 2013, made in terms of that Act, and which obliges me —
  - (a) to hand this notice to you, which must, if reasonably possible, be in the official language of your choice;
  - (b) to read out or cause this notice to be read out to you if you are unable to read this notice;
  - (c) to inquire from you whether you understand the contents of this notice; and
  - (d) to explain any part of the notice which you don't understand.
  
3. A complainant (that is the person who is being harassed) may on any day and at any time, in the prescribed manner apply for a protection order against harassment at the Magistrate's Court in whose area —
  - (a) the complainant permanently or temporarily resides, carries on business or is employed;
  - (b) the respondent (that is the person who commits an act of harassment) permanently or temporarily resides, carries on business or is employed; or
  - (c) the act of harassment occurred.
  
4. A person commits an act of harassment if he or she directly or indirectly engages in conduct which he or she knows or ought to know —
  - (a) causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by **unreasonably** following, watching or pursuing the complainant or a related person, or engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues or sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant or a related person; or
  - (b) amounts to sexual harassment of the complainant or a related person.

Harm is defined to mean any mental, psychological, physical or economic harm.
  
5. An application for a protection order against harassment may be made by another person on behalf of the complainant if the person who intends to apply for the protection order has a material interest in the well-being of the complainant or related person. However, such application must be brought with the written consent of the complainant, except in circumstances where the complainant is a person who, in the opinion of the court, is unable to do so.
  
6. Any child, or person on behalf of a child, may apply to the court for a protection order.
  
7. The court will consider the application of the complainant or person referred to in section 2(3)(a) of the Protection from Harassment Act, 2011, and may, if the evidence substantiates the fact that —
  - (a) the respondent is engaging or has engaged in harassment;
  - (b) harm is being or may be suffered by the complainant or a related person as a result of that conduct if a protection order is not issued immediately; and
  - (c) the protection to be accorded by the interim protection order is likely not to be achieved if prior notice of the application is given to the respondent,

issue an interim protection order against the respondent.

8. An interim protection order is of force and effect from the time it is issued by the court and the existence thereof has been brought to the attention of the respondent. A copy of the application and evidence noted during the application will be served on the respondent, together with the interim protection order, and the respondent will be called upon to show cause on the return date specified in the order why the interim protection order should not be made final. The protection afforded by an interim protection order is temporary in nature and will expire on the return date.

9. On the return date the court will hear the matter and may issue a permanent protection order which will be valid for a period of five years or such further period as the court may determine on good cause shown by the complainant.

10. The court may, by means of an interim or final protection order prohibit the respondent from —

- (a) engaging in or attempting to engage in harassment;
- (b) enlisting the help of another person to engage in harassment; or
- (c) committing any other act as may be specified in the protection order.

The court may also impose any additional conditions on the respondent which it deems reasonably necessary to protect and provide for the safety or well-being of the complainant or related person.

11. In terms of section 10(4) of the Protection from Harassment Act, 2011, the physical, home and work address of the complainant or related person must be omitted from the protection order, unless the nature of the terms of the protection order necessitates the inclusion of the address, and the court may issue any directions to ensure compliance with this provision of the Act.

12. Whenever a court issues an interim or final protection order, a warrant for the arrest of the respondent will be issued, but the execution of the warrant will be suspended subject to compliance with any prohibition, condition, obligation or order which the court may impose to prohibit the harassment of the complainant or related person. If the respondent contravenes any specified prohibition, condition, obligation or order contained in a protection order, the complainant may hand the warrant of arrest, together with an affidavit, wherein it must be stated that the respondent has contravened the protection order, to a member of the South African Police Service who must —

- (a) if there is a possibility that the complainant may suffer harm, arrest the respondent; or
- (b) if there is insufficient grounds for arresting the respondent, hand a written notice to the respondent to appear before a court,

to answer to a criminal charge of contravening a protection order.

13. I will provide you with an application form if you want to apply for a protection order against harassment.

14. In addition to the application for a protection order you also have the right to lodge a criminal complaint against the respondent if the harassing conduct also amounts to an offence. It is, however, not necessary to lay a criminal charge in order to obtain a protection order.

15. WARNING:

15.1 It is a criminal offence to make a false statement in an affidavit —

- (a) for the application for a protection order; or
- (b) to the effect that the respondent has contravened a protection order.

15.2 The court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.



(Tear off and place on court file if the complainant or person who applies for a protection order on behalf of the complainant proceeds with the application)  
\*Delete whichever is not applicable

Application Number: ...../20.....

Date: .....

Name and surname of clerk of the court: .....

Name and surname of \*complainant/\*person who applies for a protection order on behalf of the complainant: .....

.....  
\*Signature/\*thumb print /\*mark of \*complainant/\*person who applies for a protection order on behalf of the complainant

\*\*\*\*\*

**FORM 2**  
**[Regulation 3]**  
**APPLICATION FOR PROTECTION ORDER**  
**SECTION 2(1) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

In the Magistrate's Court for the District of .....

Application number: .....20.....

Name of complainant: .....

This form is to be lodged with the clerk of the court

Is the complainant in possession of or in the process of applying for a protection order against harassment or stalking as provided for in the Domestic Violence Act, 1998 (Act No. 116 of 1998).	Yes	No
---	-----	----

**PART A : APPLICATION**

(\*Delete whichever is not applicable)

**1. PARTICULARS OF COMPLAINANT**

Surname:	
Full names:	
Identity number:	
Date of birth:	
Home or temporary address:	
Home/contact telephone number/s:	
Work address:	
Work telephone number:	
Occupation:	

**\*2. PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE ABOVEMENTIONED COMPLAINANT (if applicable)**

Surname:	
Full names:	
Identity number:	
Date of birth:	
Home or temporary address:	
Home/contact telephone number/s:	
Work address:	
Work telephone number:	
Occupation:	
Nature of relationship with	

the complainant:	
State reason(s) why application is made on behalf of the complainant:	
Indicate whether written consent of complainant has been obtained: (Delete whichever is not applicable)	<p>* (a) Written consent has been obtained and is attached.</p> <p>* (b) Written consent is not necessary since the complainant is a child (under the age of 18 years).</p> <p>* (c) The complainant is unable to provide written consent because: .....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

**\*3. PARTICULARS OF RELATED PERSON/S AFFECTED BY HARASSMENT (A RELATED PERSON IS ANY MEMBER OF THE FAMILY OR HOUSEHOLD OF A COMPLAINANT, OR ANY OTHER PERSON IN CLOSE RELATIONSHIP TO THE COMPLAINANT):**

Name:	Age:	Relationship to complainant:

**4. INFORMATION REGARDING ACTS OF HARASSMENT**

(Take note:

- (a) Supporting affidavits by persons who have knowledge of the matter concerned may accompany this application and must be annexed as an annexure to this form.
- (b) If reference is made to any documents, photographs, recordings, videos etc. —







Work telephone number:	
Occupation:	

**\*5.2 To be completed where respondent is unknown to the complainant and uses electronic communications to harass complainant:**

The name of the service provider which provides a service to the complainant or related person over which the harassing communication was received (for example XYD Internet service provider which provides an internet service to the complainant/related person who is the owner/user of the computer which received a harassing e-mail):	
The electronic communications identity number associated with the aforementioned service to which the harassing communication was sent (for example the Internet Protocol (IP) address assigned to the computer of the complainant/related person or cellular phone number or telephone number which received the harassing communication):	
The electronic communications identity number from where the harassing communication originated, where available (for example the e-mail address and/or IP address accompanying the harassing electronic communication or a web-address which contains harassing content or cellular phone number from which the harassing communication originated):	
Date, time and duration of harassing communication, if applicable (for example the complainant received a harassing cellular phone call on 12 December 2012 at 12h00 which lasted 12 minutes):	

**\*5.3 To be completed where respondent is unknown to the complainant and physically harasses the complainant:**

Will you be able to identify the respondent:	<b>Yes</b>	<b>No</b>
--	------------	-----------

(a) Description of respondent: .....

.....

.....

.....

.....

.....



.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**7. TERMS OF PROTECTION ORDER**

The court is requested to —

**7.1 prohibit the respondent from —**

- \*7.1.1 engaging in or attempting to engage in harassment of the complainant;**
- \*7.1.2 engaging in or attempting to engage in harassment of the related persons whose particulars are provided in paragraph 3, above;**
- \*7.1.2 enlisting the help of another person to engage in harassment of the \*complainant/\*related person;**
- \*7.1.3 committing any of the following act/s:**

- (a) .....
- (b) .....
- (c) .....

**\*7.2 impose the following additional conditions that are necessary to protect and to provide for the safety and well-being of the \*complainant/\* related person:**

- (a) .....
- (b) .....
- (c) .....

**\*7.3 order (mark appropriate space and complete where necessary):**

<b>*(a)</b>	That a member of the South African Police Service is to seize the following weapon(s) .....	
<b>*(b)</b>	That a member of the South African Police Service is to accompany the complainant or related person to the following residence: .....	

	....., to supervise the collection of the complainant's or related person's personal property set out in paragraph 8, below.	
*(c)	That the station commander of the ..... ..... police station must investigate the matter with the view to instituting a criminal prosecution against the respondent.	

**\*8. 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>

**9. POLICE STATION WHERE BREACH OF PROTECTION ORDER WILL LIKELY BE REPORTED**

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

**10. INDEX OF ANNEXURES TO THIS FORM**

Mark each Annexure alphabetically, starting with "Annexure A", and attach it to this form.	Give short description of Annexure, for example "statement of witness X", "CD with photographs".

**WARNING:**

- \* It is a criminal offence to make a false statement in an affidavit for the application for a protection order.
- \* The court may make an order as to costs against a party if it is satisfied

that the party in question has acted frivolously, vexatiously or unreasonably.

.....  
\*Signature/\*thumb print /\*mark of \*complainant/\*person who applies for a protection order on behalf of the complainant

.....  
DATE

**PART B : CERTIFICATION**

I 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 to taking the prescribed oath?  
Answer:.....
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer: .....

I 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.....

.....  
**Justice of the Peace / Commissioner of Oaths**

Full Names: .....

Designation: .....

Area for which appointed: .....

Business Address: .....

.....  
**To be completed by the clerk of the court**

**PART C:**

1. I, ....., the clerk of the above-mentioned court, received the application for a protection order on (date): ..... (time): .....

2. I have completed the attached acknowledgement of receipt and handed it to the person who lodged this application for a protection order.

**PART D:**  
 The application for a protection order was submitted to (name and surname of magistrate): ..... on (date): .....  
 (time): .....

Signature of clerk of the court: .....

Office stamp



**Acknowledgement of receipt of application for a protection order by clerk of the court**

(Take note: This acknowledgement of receipt must be handed to the person who lodges the application with the clerk of the court)

Application number: .....20.....

Name of complainant: .....

I, ....., the clerk of the Magistrate's Court for the District of ....., hereby acknowledges receipt of the application for a protection order against harassment.

Signature of clerk of the court: .....

Date: ..... Time: .....

Office stamp

\*\*\*\*\*

(\*Delete whichever is not applicable)

Take note: In terms of section 10(4) of the Protection from Harassment Act, 2011, the physical, home and work address of the complainant or related person must be omitted from the protection order (including any reference to such an address in documents annexed to the interim protection order), unless the nature of the terms of the order necessitates the inclusion of the address.

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....	
HELD AT .....	APPLICATION NO. .... / .....
In the matter between:	
..... (Complainant)	
AND	
..... (Respondent)	

**1. PARTICULARS OF RESPONDENT**

Name and surname: .....

Address:.....

.....

.....

.....

Contact number (telephone number/cellular phone number/facsimile number/e-mail address (whichever is available)):

.....

.....

**2. PARTICULARS OF APPLICATION**

The complainant applied for a protection order against the respondent in terms of the Protection from Harassment Act, 2011 (Act No. 17 of 2011). This court, after considering the application, issued an interim protection order against the respondent.

**3. PARTICULARS OF INTERIM PROTECTION ORDER**

In terms of the interim protection order:

3.1 The respondent is prohibited by this court from —

(a) engaging in or attempting to engage in harassment of —

\* (i) the complainant; and/or

\* (ii) the following related person/s :

▶ .....

▶ .....  
▶ .....  
▶ .....  
▶ .....

\*(b) enlisting the help of another person to engage in harassment of the complainant and/or above related person/s; and/or

\*(c) committing any of the following act/s:

- (i) .....
- (ii) .....
- (iii) .....

\*3.2 The court imposes the following additional conditions that are necessary to protect and to provide for the safety and well-being of the complainant or related person/s:

- (a) .....
- (b) .....
- (c) .....

\*3.3 The court orders:

*(a)	That a member of the South African Police Service is to seize the following weapon(s): .....
*(b)	That a member of the South African Police Service is to accompany the complainant or related person to the following residence:.....  to supervise the collection of the complainant's or related person's personal property set out in paragraph 8 of the application for a protection order, and such member is authorised to take all reasonable steps to effect the collection of the said property.

4. The respondent is called upon to show cause on ..... (the return date) at ..... (time) at the abovementioned court, why the court should not issue a final protection order.

5. The return date specified in paragraph 4, above, may be anticipated by the respondent on not less than 24 hours' notice to the applicant and the court.

6. If the respondent does not appear on the return date and if the court is satisfied that —



- (a) proper service has been effected on the respondent; and
  - (b) the application contains *prima facie* evidence that the respondent has engaged or is engaging in harassment,
- the court must issue a final protection order.

7. A copy of the application of the complainant and the record of any evidence noted during proceedings are attached for the information of the respondent.

8. In terms of section 16 of the Act the court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.

9. In terms of sections 3(3) and 15(a) of the Protection from Harassment Act, 2011, ..... (name and surname), who is a \*clerk of court/\*sheriff/ \*peace officer is hereby directed to serve the interim protection order, a copy of the application for a protection order and the record of evidence noted on the respondent in accordance with regulation 28 of the Protection from Harassment Regulations, 2013.

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE

Office stamp

**TAKE NOTE:**

(a) A warrant of arrest has been authorised for the arrest of the respondent, the execution of which is suspended subject to the respondent's compliance with any specified prohibition, condition, obligation or order contained in this protection order.

(b) A respondent who contravenes any specified prohibition, condition, obligation or order contained in the protection order is in terms of section 18(1)(a) of the Protection from Harassment Act, 2011, guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

\*\*\*\*\*

**FORM 4**  
**[Regulation 5]**  
**NOTICE TO RESPONDENT TO SHOW CAUSE**  
**SECTION 3(4) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO.**

17 OF 2011)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....

HELD AT ..... APPLICATION NO. .... / .....

In the matter between:

..... (Complainant)

AND

..... (Respondent)

(\*Delete whichever is not applicable)

**1. PARTICULARS OF RESPONDENT**

Address: .....

Contact number (telephone number/cellular phone number/facsimile number/e-mail address (whichever is available)): .....

**2. PARTICULARS OF APPLICATION**

On ..... (date), ..... (name of person who applied for protection order) applied for a protection order against the respondent. The court considered the application but has not issued an interim protection order. A copy of the application and supporting affidavits are attached for the information of the respondent.

**3. NOTICE TO RESPONDENT**

3.1 The respondent is called upon to show cause on ..... (the return date) at ..... (time) at the abovementioned court, why the court should not issue a final protection order against him or her.

3.2 The return date specified in paragraph 3.1, above, may be anticipated by the respondent on not less than 24 hours' written notice to the complainant and the court.

3.3 If the respondent does not appear on the return date and if the court is satisfied that —

(a) proper service has been effected on the respondent; and

(b) the application contains *prima facie* evidence that the respondent has engaged or is engaging in harassment, the court must issue a final protection order.

3.4 In terms of section 16 of the Protection from Harassment Act, 2011, the court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.

In terms of sections 3(4) and 15(a) of the Protection from Harassment Act, 2011, ..... (name and surname), who is a \*clerk of the court/\*sheriff/ \*peace officer is hereby directed to serve this notice, a certified copy of the application and supporting affidavits on the respondent in accordance with regulation 28 of the Protection from Harassment Regulations, 2013.

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE

\_\_\_\_\_  

Office stamp

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**FORM 5**  
[Regulation 7]  
**DIRECTION TO ELECTRONIC COMMUNICATIONS SERVICE**  
**PROVIDER TO FURNISH INFORMATION TO COURT**  
SECTION 4(1)(b) AND (2) OF THE PROTECTION FROM HARASSMENT ACT,  
2011 (ACT NO. 17 OF 2011)  
(CONFIDENTIAL)

APPLICATION NO. .... / .....

DIRECTION NO ..... / 20 .....

To: .....  
(Electronic communications service provider)

- (a) Facsimile number of Magistrate's Court: .....
- (b) Phone number of Magistrate's Court: .....

\_\_\_\_\_

(\* Delete whichever is not applicable)

**To be completed by the magistrate:**

1. On .....(date) an application for the issuing of an interim protection order against the harassment of the \*complainant/\*related person was considered by me .....(name and surname of magistrate) in the Magistrate's court for the district of .....

2. As a result of evidence that was produced to the court I am satisfied in terms of section 3(2) of the Protection of Harassment Act, 2011 (Act No. 17 of 2011), that an interim protection order must be issued as a result of the harassment of the \*complainant/\*related person by means of electronic communications or electronic mail over an electronic communications system of an electronic communications service provider.

3. The relevant particulars of the \*complainant/\*related person are as follows:

3.1 Full names and surname: .....

3.2 Address: .....

3.3 Identity number: .....

3.4 Contact number: .....

**4. Particulars of harassing electronic communications or electronic mail:**

A. Name of electronic communications service provider which provides an electronic communications service/s to the *complainant/*related person through which the harassing conduct was received and type of electronic communications service so provided	
B. Electronic communications identity number/s associated with the aforementioned service/s assigned to the *complainant/*related person.	
C. Date on which electronic communications were received by *complainant/*related person.	
D. Time on which electronic communications were received by *complainant/*related person.	
E. Duration of communication received by *complainant/*related person.	
F. Electronic communications identity number from which the harassing communication originated, where available.	
G. Electronic communications service provider to which the electronic communications identity	

number mentioned in paragraph F has been assigned.	
--	--

**\*5. To be completed where the electronic communications identity number from which the harassing conduct originated and the electronic communications service provider to which such electronic communications identity number has been assigned, have been identified either by the complainant or by an electronic communications service provider in terms of paragraph 6, below**

As indicated in paragraph 4, above, the electronic communications identity number/s from which the harassing conduct originated and the electronic communications service provider to which such electronic communications identity number/s has/have been assigned, has/have been identified (see paragraphs 4.F and 4.G, above) and the electronic communications service provider is therefore directed to provide the court with —

- (a) the full names, surname, address and identity number of the person to which such electronic communications identity number/s has/have been assigned if the person is/was a client of the electronic communications service provider; and
- (b) a confirmation that, according to the records of the electronic communications service provider, the electronic communications or electronic mail was/were sent or not sent from the electronic communications identity number/s identified in paragraph 4.F to the electronic communications identity number/s furnished in paragraph 4.B.

**\*6. To be completed where the electronic communications service provider which provides a service to the \*complainant/\*related person is requested to furnish information to the court in order to identify the electronic communications identity number from which the harassing conduct originated and the electronic communications service provider to which such electronic communications identity number has been assigned**

As indicated in paragraph 4F, above, the electronic communications identity number/s from which the harassing conduct originated, is/are not available, and the electronic communications service provider identified in paragraph 4A is therefore directed to identify and provide the court with —

- (a) the electronic communications identity number/s from which the harassing conduct originated, where available;
- (b)
  - (i) the full names, surname, address and identity number of the person to whom such electronic communications identity number/s has/have been assigned if the person is/was a client of the electronic communications service provider; and
  - (ii) a confirmation that, according to the records of the electronic communications service provider, the electronic communication/s or electronic mail was/were sent or not sent from the electronic communications identity number/s identified by the electronic communications service provider to the electronic communications identity number furnished in paragraph 4.B;
- (c) the name and particulars of the electronic communications service provider/s which can assist the court to identify the electronic communications identity number/s in paragraph 4.F and the person/s to which the electronic communications identity number/s has/have been assigned; or

(d) any other information that is available to an electronic communications service provider which may be of assistance to the court to identify the respondent or electronic communications service provider which provides a service to the respondent.

7. The information under paragraph 5 or 6 must, in terms of section 4(3)(a) of the Protection from Harassment Act, 2011, be submitted to the court within five ordinary court days from the time that the direction is served on an electronic communications service provider.

8. An electronic communications service provider may, in terms of section 4(3)(b) of the Protection from Harassment Act, 2011, apply to the court for —

- (a) an extension of the five court day period on the ground that the information cannot be provided timeously; or
- (b) cancellation of the direction on the ground that —
  - (i) it does not provide an electronic communications service to either the complainant or related person or respondent; or
  - (ii) the requested information is not available in the records of the electronic communications service provider.

9. In terms of section 18(4)(a)(i) of the Protection from Harassment Act, 2011, it is an offence not to provide the information within five ordinary court days or such extended period allowed by the court following an application in terms of section 4(3)(b) of that Act.

10. In terms of section 4(2) of the Protection from Harassment Act, 2011, I hereby direct that Mr/Ms..... (name and surname), who is a clerk of the court, must serve this direction on the electronic communications service provider in accordance with regulation 29 of the Protection from Harassment Regulations, 2013, to the following facsimile number: .....

11. The information must be furnished to the court in the form of an affidavit, prescribed by regulation 8(3) of the Protection from Harassment Regulations, 2013, which must be transmitted to the court by means of a facsimile to the following facsimile number: ..... in accordance with regulation 29 of those Regulations, and must be addressed to: ..... (name and surname of clerk of the court). The affidavit must at all times be marked as confidential.

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE

Office stamp

12. TO BE COMPLETED BY THE CLERK OF THE COURT WHO IS IN TERMS OF

**PARAGRAPH 10 DIRECTED BY THE COURT TO SERVE DIRECTION ON ELECTRONIC COMMUNICATIONS SERVICE PROVIDER**

I, ..... (name and surname) am the clerk of the court who is directed, in terms of paragraph 10, to serve this direction on the electronic communications service provider.

My contact details are as follows:

Facsimile number: .....

Telephone number: .....

Cellular phone number: .....

E-mail address: .....

Physical address: .....

.....

.....

Signature: .....

Personal number: .....

Date: .....

**(CONFIDENTIAL)**

\*\*\*\*\*

**FORM 6**

[Regulation 8(3)]

**AFFIDAVIT BY ELECTRONIC COMMUNICATIONS SERVICE PROVIDER TO FURNISH INFORMATION TO COURT**

**SECTION 4(1)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

**(CONFIDENTIAL)**

APPLICATION NO. .... /20 .....

DIRECTION NO. .... /20 .....

To: ..... (name and surname of clerk of the court identified in the direction)

Facsimile number: .....

From: ..... (name and surname of designated person) of .....

(name of electronic communications service provider)

E-mail address: .....

Facsimile number: .....

Telephone number: .....

Physical address: .....

(\*Delete whichever is not applicable)

**\*PART A**

I, ..... (name, surname and identity number) employed as a ..... (designation) at ..... (name of electronic communications service provider) situated at the following address .....

hereby states as follows:

**\*1. With reference to paragraph 5 of the direction, the following information which is available in the records of this electronic communications service provider is hereby provided:**

(a) The electronic communications identity number/s from which the electronic communication/s originated as indicated in paragraph 4.F of the direction, \*is/are \*was/were assigned to this electronic communications service provider. The particulars of the client to which this /these electronic communications identity number/s \*is/are \*was/were assigned are as follows:

- (i) Full names and surname: .....
- (ii) Address: .....
- (iii) Identity number: .....

(b) The electronic communications identity number/s, provided in paragraph 4.F of the direction –

\* (i) contacted the electronic communications identity number/s set out in paragraph 4.B of the direction as indicated in the table below:

Electronic communications identity number from which communication originated as identified in paragraph 4.F of the direction	Electronic communications identity number contacted as identified in paragraph 4.B of direction	Time and date of communication	Duration of communication

\* (ii) did not contact the electronic communications identity number/s set out in paragraph 4.B of the direction.

**\*2 With reference to paragraph 6 of the direction, the following information which is available in the records of this electronic communications service provider is hereby provided:**



\* (a) From the information available in the records of this electronic communications service provider, the following electronic communications identity number/s contacted the electronic communications identity number/s set out in paragraph 4.B of the direction on the date/s and time/s identified in paragraphs 4.C and 4.D of the direction:

i. Electronic communications identity number from which communication originated	ii. Electronic communications identity number contacted as identified in paragraph 4.B of direction	iii. Time and date of communication	iv. Duration of communication

\* (b) The electronic communications identity number/s identified under Item (a)(i), is/are assigned to a client of this electronic communications service provider whose particulars are as follows:

- (i) Full names and surname: .....
- (ii) Address: .....
- (iii) Identity number: .....

\* (c) The electronic communications identity number/s from which the communications originated as is identified in paragraph 4.F of the direction is/are not assigned to this electronic communications service provider but is/are assigned to the following electronic communications service provider/s, if known:

.....  
 .....  
 .....

3. In terms of section 4(6) of the Protection from Harassment Act, 2011, the respondent was, on ..... (date) ..... (time), by means of ..... (type of electronic communication), which was addressed to the following electronic communications identity number ....., informed —

- (a) that the information referred to in paragraph/s \*1(a)/\*1(b)(i)/\*1(b)(ii)/\*2(a)/\*2(b)/\*2(c) is to be provided to the court;
- (b) of the reference number of the direction; and
- (c) of the name and address of the court.

\_\_\_\_\_  
 Signature of Deponent

\_\_\_\_\_  
 Date

I 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



Signature: .....  
 Date: .....  
 Name and surname: .....

(CONFIDENTIAL)

\*\*\*\*\*

**FORM 7**  
**(Regulation 9)**  
APPLICATION BY ELECTRONIC COMMUNICATIONS SERVICE PROVIDER FOR  
EXTENSION OF PERIOD WITHIN WHICH INFORMATION MUST BE PROVIDED  
TO COURT OR CANCELLATION OF DIRECTION  
 SECTION 4(3)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT  
 NO.17 OF 2011)

APPLICATION NO. .... / .....

DIRECTION NO ...../20.....

To: .....  
 (The clerk of the court)

Facsimile number of clerk of the court: .....

From: ..... (name and surname  
 of designated person) of .....  
 (name of electronic communications service provider)  
 E-mail address: .....  
 Facsimile number: .....  
 Telephone number: .....  
 Physical address: .....

\* Mark with a cross whichever is applicable

AFFIDAVIT NO ...../20.....

To be completed by designated person of electronic communications service provider:

1. On behalf of the abovementioned electronic communications service provider, I hereby apply for —

(a)	an extension of the five court day period for a further period of five court days within which the affidavit must, in terms of section 4(3)(a) of the Protection from Harassment Act, 2011, be submitted to the court	*
-----	---	---

(b)	the cancellation of the direction on the ground that this electronic communications service provider does not provide an electronic	*
-----	---	---



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 to taking the prescribed oath?  
Answer \_\_\_\_\_
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_

I 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 was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**Justice of the Peace / Commissioner of Oaths**

Full Names: \_\_\_\_\_

Designation: \_\_\_\_\_

Area for which appointed: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

**FORM 8**  
**[Regulation 10(1)]**

**REQUEST FOR ADDITIONAL EVIDENCE BY WAY OF AFFIDAVIT**  
**FROM ELECTRONIC COMMUNICATIONS SERVICE PROVIDER**  
**SECTION 4(4)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT**  
**NO. 17 OF 2011)**  
**(CONFIDENTIAL)**

**(MUST BE COMPLETED IN DUPLICATE)**

APPLICATION NO. .... / .....

DIRECTION NO ...../20.....

To: .....  
**(Electronic communications service provider)**

- (a) Facsimile number of Magistrate's Court: .....
- (b) Phone number of Magistrate's Court:.....

**\* Mark with a cross whichever is applicable**

\_\_\_\_\_  
**To be completed by the magistrate:**



3. I hereby direct Mr/Ms ..... (name, surname), who is a clerk of the court, to serve this request, in accordance with regulation 29 of the Protection from Harassment Regulations, 2013, on the electronic communications service provider to the following facsimile number:  
.....

4. The information requested in terms of paragraph 2 of this request must be furnished to the court by not later than ..... (date and time) in the form of an affidavit which corresponds substantially with Form 9 of the Annexure to the Protection from Harassment Regulations, 2013, and which must be filed with the clerk of the court whose particulars appear in paragraph 6 of this request in accordance with regulation 29 of the Regulations.

5. The affidavit must at all times be marked as confidential.

\_\_\_\_\_  
**MAGISTRATE**

\_\_\_\_\_  
**DATE**

Office stamp

**6. TO BE COMPLETED BY THE CLERK OF THE COURT WHO IS DIRECTED BY THE COURT TO SERVE THE REQUEST ON ELECTRONIC COMMUNICATIONS SERVICE PROVIDER**

I ..... (name and surname of person) am the clerk of the court who is directed to serve this request on the electronic communications service provider.

My contact details are as follows:

Facsimile number: .....

Telephone number: .....

Cellular phone number: .....

E-mail address: .....

Physical address: .....

.....

.....

Signature: .....

Persal number: .....

Date: .....

**(CONFIDENTIAL)**

\*\*\*\*\*







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

Answer \_\_\_\_\_

I 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 was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**Justice of the Peace / Commissioner of Oaths**

Full Names: \_\_\_\_\_

Designation: \_\_\_\_\_

Area for which appointed: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

**(CONFIDENTIAL)**

\*\*\*\*\*

**FORM 10**

[Regulation 11]

**DECISION OF COURT**

**SECTION 4(4)(d) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

**(MUST BE COMPLETED IN DUPLICATE)**

DIRECTION NO ...../20.....

APPLICATION NO. ....../.....

To: .....

**(Electronic communications service provider)**

Facsimile number of electronic communications service provider: .....

E-mail address of electronic communications service provider: .....

Phone number of electronic communications service provider: .....

\_\_\_\_\_

To be completed by the magistrate:

\* Mark with a cross whichever is applicable

1. The application by the electronic communications service provider, in terms of section 4(3)(b) of the Protection from Harassment Act, 2011, for —

(a)	an extension of the five court day period for a further period of five	*
-----	--	---



Facsimile number: .....

Telephone number: .....

Cellular phone number: .....

E-mail address: .....

Physical address: .....

.....

.....

Signature: .....

Persal number: .....

Date: .....

Office stamp

\*\*\*\*\*

**FORM 11**  
**[Regulation 13]**  
**DIRECTION TO STATION COMMANDER TO INVESTIGATE**  
**COMPLAINT OF HARASSMENT IN ORDER TO DETERMINE NAME**  
**AND ADDRESS OR ANY OTHER INFORMATION WHICH MAY BE**  
**REQUIRED TO IDENTIFY OR TRACE RESPONDENT**  
**SECTION 5(1)(b) AND (2) OF THE PROTECTION FROM HARASSMENT ACT,**  
**2011 (ACT NO. 17 OF 2011)**

**(CONFIDENTIAL)**

**(MUST BE COMPLETED IN DUPLICATE)**

APPLICATION NO. .... /20.....

DIRECTION NO ..... /20.....

To: ..... (name and surname  
of station commander) of the ..... (name of police  
station)

Physical address of police station: .....

.....

.....

.....

.....  
**Telephone number of station commander:** .....

**\*Delete whichever is not applicable**

**To be completed by the magistrate:**

1. On .....(date) an application for the issuing of an interim protection order against the harassment of the \*complainant /\*related person was considered by me .....(name and surname of magistrate) in the Magistrate's court for the district of .....

2. As a result of evidence that was produced to the court I am satisfied in terms of section 3(2) of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), that an interim protection order must be issued as a result of the harassment of the \*complainant/\*related person by a person whose identity and/or address is/are unknown to the \*complainant/\*related person.

3. The relevant particulars of the \*complainant/\*related person are as follows:

3.1 Full names and surname: .....

3.2 Address: .....

3.3 Identity number: .....

3.4 Contact number: .....

4. You are hereby directed to contact the \*complainant/\*related person and to investigate the matter with a view to –

- (a) determining the name and address of the respondent; and/or
- (b) obtaining any other information which may be required in order to identify or trace the respondent.

5. The information obtained as a result of your investigation must be submitted to this court on ..... (date on which information must be submitted to court).

6. You may, in terms of section 5(3)(b) of the Protection from Harassment Act, 2011, apply to the court for –

- (a) an extension of the period referred to in paragraph 5 on the ground that the information cannot be provided timeously; or
- (b) the cancellation of the direction on the ground that after a reasonable investigation of the matter the South African Police Service was unable to –
  - (i) determine the name and address of the respondent; and/or
  - (ii) obtain any other information which may be required in order to identify or trace the respondent.

7. In terms of section 5(2) of the Protection from Harassment Act, 2011, I hereby direct that Mr/Ms.....

.....  
(name, surname and designation of person identified by the court to serve direction), must serve this direction on the station commander identified in this direction in the manner prescribed by regulation 28 of the Protection from Harassment Regulations, 2013.

8. The affidavit in terms of section 5(3)(a), or the affidavit in terms of section 5(3)(b), of the Protection from Harassment Act, 2011, must be filed with the clerk of the court whose particulars are as follows:

- (a) Name and surname of clerk of the court: .....
- (b) Street address of court: .....
- (c) Contact number of clerk of the court: .....
- (d) Facsimile number of clerk of the court: .....

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE

**9. TO BE COMPLETED BY PERSON WHO IS DIRECTED BY THE COURT TO SERVE DIRECTION ON STATION COMMANDER**

(a) I ..... (name and surname of person) am the person who is identified by the court in terms of paragraph 7 to serve this direction on the station commander identified in this request.

(b) I hereby certify that on ..... (date) at ..... (time) at ..... (place), I served the direction on the following member of the South African Police Service who has identified himself/herself as:

- \* Name and surname: .....
- \* Rank: .....

Signature of person on whom the direction is served: .....

Persal number of person on which direction is served: .....

Signature of \*clerk of the court/\*sheriff: .....

Date: .....

**(CONFIDENTIAL)**

\*\*\*\*\*

FORM 12  
[Regulation 14]  
**AFFIDAVIT BY MEMBER OF SOUTH AFRICAN POLICE SERVICE TO  
FURNISH INFORMATION TO COURT**  
SECTION 5(3)(a) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT  
NO. 17 OF 2011)

**(CONFIDENTIAL)**

(MUST BE COMPLETED IN DUPLICATE)

APPLICATION NO. .... /20 .....  
DIRECTION NO. .... /20 .....

To: ..... (name and surname of clerk of the court identified in the direction)

From (particulars of person making affidavit):

Name and surname: .....

Telephone number: .....

Physical address: .....

.....

.....

.....

.....

Rank: .....

Persal number: .....

hereby states as follows:

1. In terms of the direction of the court I was ordered to investigate the alleged harassment of the complainant/related person with a view to determining the name and address or any other information which may be required in order to identify or trace the respondent.

2. As a result of the investigation the following information of the respondent has been obtained:

2.1 Name and surname of respondent: .....

.....

2.2 Address of respondent: .....

.....

.....

2.3 The following additional information has been acquired in order to identify or trace the respondent:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....  
.....  
.....

(Any documentation acquired which may be used to identify or trace the respondent must be attached as an annexure to this form.)

\_\_\_\_\_  
**Signature of Deponent**

\_\_\_\_\_  
**Date**

I 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 to taking the prescribed oath?  
Answer \_\_\_\_\_
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_

I 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 was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
**Justice of the Peace / Commissioner of Oaths**

Full Names: \_\_\_\_\_  
Designation: \_\_\_\_\_  
Area for which appointed: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To be completed by the clerk of the court on receipt of the affidavit:  
I, ..... (name and surname of clerk of the court), hereby certify that I have received this affidavit from ..... (name and surname of person who furnished the affidavit to clerk of the court) on ..... (date).

\_\_\_\_\_  
**Signature of clerk of the court**

**(CONFIDENTIAL)**

\*\*\*\*\*



**FORM 13**  
**(Regulation 15)**  
**APPLICATION BY STATION COMMANDER FOR EXTENSION OF PERIOD**  
**WITHIN WHICH INFORMATION MUST BE PROVIDED TO COURT OR**  
**CANCELLATION OF DIRECTION**  
**SECTION 5(3)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT**  
**NO. 17 OF 2011)**

**Note: If this application is, in terms of regulation 15(2)(a) of the Protection from Harassment Regulations, 2013, filed with the clerk of the court it must be completed in duplicate and submitted in duplicate to the clerk of the court**

**\* Mark with a cross whichever is applicable**

APPLICATION NO. .... / .....

DIRECTION NO ..... / 20 .....

To: .....  
 (The clerk of the court)

Facsimile number of clerk of the court: .....

From: ..... (\*station commander/  
 \*designated member of the South African Police Service of the  
 ..... police station)

Facsimile number of station commander: .....

E-mail address of station commander: .....

Phone number of station commander: .....

---

AFFIDAVIT NO: ..... / 20 .....

**To be completed by station commander:**

**1. I hereby apply for -**

<b>(a)</b>	an extension of the time period within which the affidavit must, in terms of section 5(3)(a) of the Protection from Harassment Act, 2011, be submitted to court	*
<b>(b)</b>	the cancellation of the direction on the grounds that, after a reasonable investigation of the matter, the South African Police Service is not in a position to determine the name and address of the respondent or obtain any other information which is required in order to identify or trace the respondent	*

**2. I, .....** (name, surname and Persal number), the station commander of the ..... police station, in support of this application hereby states as follows:

.....



\*To be completed by the clerk of the court on receipt of the affidavit filed in terms of regulation 15(2)(a) of the Protection from Harassment Regulations, 2013: I, ..... (name of clerk of the court), hereby certify that I have received this affidavit from ..... (name of person who furnished affidavit to clerk of the court) on ..... (date).

Signature of clerk of the court

\*\*\*\*\*

FORM 14  
[Regulation 16(1)]  
**REQUEST FOR ADDITIONAL EVIDENCE**  
SECTION 5(4)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

(CONFIDENTIAL)

(MUST BE COMPLETED IN DUPLICATE)

APPLICATION NO. .... / .....

DIRECTION NO ..... /20.....

To: .....  
(station commander) of the ..... police station.

(a) Facsimile number of Magistrate's Court: .....

(b) Phone number of Magistrate's Court: .....

\* Mark with a cross whichever is applicable

To be completed by the magistrate:

1. On .....(date) an application was made by the station commander of the ..... (police station) for –

(a)	an extension of the period within which the affidavit, in terms of section 5(3)(a) of the Protection from Harassment Act, 2011, must be submitted to court	*
(b)	the cancellation of the direction on the grounds that, after a reasonable investigation of the matter, the South African Police Service is not in a position to determine the name and address of the	*



5. The information requested in terms of paragraph 2 of this request must be furnished to the court by not later than ..... (date and time) in the form of an affidavit, prescribed by regulation 16(4) of the Protection from Harassment Regulations, 2013, which must be filed with the clerk of the court by -

(a) delivering the affidavit to the clerk of the court; or

(b) sending the affidavit by means of a facsimile to the facsimile number of the clerk of the court identified in this request the manner prescribed by regulation 29 of the Protection from Harassment Regulations, 2013.

\_\_\_\_\_ **MAGISTRATE**

\_\_\_\_\_ **DATE**



**6. TO BE COMPLETED BY PERSON WHO IS DIRECTED BY THE COURT TO SERVE REQUEST ON STATION COMMANDER**

(a) I ..... (name and surname of person) am the person who is identified by the court in terms of paragraph 3 to serve this request on the station commander identified in this request.

(b) I hereby certify that on ..... (date) at ..... (time) at ..... (place), I served the request on the following member of the South African Police Service who has identified himself/herself as:

\* Name and surname: .....

\* Rank: .....

Signature of person on whom the request is served: .....

.....

Persal number of person on which direction is served: .....

.....

Signature of clerk of the court/sheriff: .....

Date: .....

**(CONFIDENTIAL)**

\*\*\*\*\*





the contents of this declaration which was \*sworn to / affirmed before me, and the Deponent's signature was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Justice of the Peace / Commissioner of Oaths

Full Names: \_\_\_\_\_

Designation: \_\_\_\_\_

Area for which appointed: \_\_\_\_\_

Business Address: \_\_\_\_\_

\*To be completed by the clerk of the court on receipt of the affidavit filed in terms of regulation 16(4)(a) of the Protection from Harassment Regulations, 2013:

I, ..... (name and surname of clerk of the court), hereby certify that I have received this affidavit from ..... (name and surname of person who furnished affidavit to clerk of the court) on ..... (date).

.....  
Signature of clerk of the court

(CONFIDENTIAL)

\*\*\*\*\*

**FORM 16**

[Regulation 17]

**DECISION OF COURT**

**SECTION 5(4)(d) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

DIRECTION NO ...../20.....

APPLICATION NO. ....../.....

To: .....  
(station commander of the ..... police station.)

Facsimile number of station commander: .....

Phone number of station commander: .....

\_\_\_\_\_ **To be completed by the magistrate:**

**\* Mark with a cross whichever is applicable**

**1. Your application in terms of section 5(3)(b) of the Protection from Harassment Act, 2011, for -**





.....  
 .....  
 Signature: .....  
 Peral number: .....  
 Date: .....

\*\*\*\*\*

**FORM 17**  
**[Regulation 18]**  
**AFFIDAVIT BY MEMBER OF SOUTH AFRICAN POLICE SERVICE TO**  
**FURNISH INFORMATION TO COURT**  
**SECTION 6(3)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT**  
**N0. 17 OF 2011)**

**(CONFIDENTIAL)**

**(MUST BE COMPLETED IN DUPLICATE)**

To the clerk of the Magistrate's Court for the district of:  
 .....

From: ..... (rank, name and  
 surname of member of South African Police Service)  
 Peral number: .....  
 E-mail address: .....  
 Facsimile number: .....  
 Telephone number: .....  
 Physical address: .....  
 .....  
 .....

\* Delete whichever is not applicable

AFFIDAVIT NO: ...../20.....

I, ..... (name and surname) whose  
 further particulars appear from the heading of this document state as follows:

(a) On ..... (date), the complainant made  
 an affidavit that he/ she intends to apply for a protection order against harassment.

(b) From the affidavit of the complainant, which is attached as Annexure A, it appears  
 that there are reasonable grounds to believe that a respondent whose name and  
 address are unknown to the complainant has been or is harassing the complainant or  
 related person.

(c) The matter was investigated in terms of section 6(1) of the Protection from

Harassment Act, 2011 (Act No. 17 of 2011), with a view to determining the name and address of the respondent.

\*(d) As a result of the investigation the following information of the respondent has been obtained:

- (i) Name and surname of respondent: .....
- (ii) Address of respondent: .....
- (iii) The following additional information has been acquired in order to identify and trace the respondent:.....

(Any documentation acquired and which may be used to identify or trace the respondent must be attached as an annexure to this Form.)

\*(e) After a reasonable investigation of the matter, I was unable to determine the name or address of the respondent.

\_\_\_\_\_  
**Signature of Deponent**

\_\_\_\_\_  
**Date**

I 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 to taking the prescribed oath?  
Answer \_\_\_\_\_
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_

I 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 was placed thereon in my presence.

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
**Justice of the Peace / Commissioner of Oaths**

Full Names: \_\_\_\_\_  
Designation: \_\_\_\_\_  
Area for which appointed: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TAKE NOTE:**  
The original affidavit must be provided to the clerk of the court, at the request of the complainant or clerk of the court, when the complainant or person applies for an interim protection order in terms of section 2 of the Protection from Harassment Act, 2011.

**To be completed by the clerk of the court on receipt of the affidavit filed in terms of regulation 18(2) of the Protection from Harassment Regulations, 2013:**

I, ..... (name and surname of clerk of the court), hereby certify that I have received this affidavit from ..... (name and surname of person who furnished affidavit to clerk of the court) on ..... (date).

.....  
Signature of clerk of the court

**(CONFIDENTIAL)**

\*\*\*\*\*

**FORM 18**  
**[Regulation 19]**  
**SUBPOENA**  
**SECTION 7(1) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

Must be completed in duplicate: The original is to be served on the person identified in the subpoena and the document which serves as proof of service must, together with the duplicate original subpoena, be furnished to the clerk of the court.

APPLICATION NO. .... / .....

Magistrate's court for the district of .....

Address of Magistrate's court:  
.....  
.....  
.....  
.....

In the matter between

**COMPLAINANT:**

.....  
and

**RESPONDENT:**

.....

In terms of regulation 19(3) of the Protection from Harassment Regulations, 2013,  
..... (name and surname of person  
identified by the court), is hereby ordered to hand this subpoena to the person  
authorised to serve subpoenas.

**To: The person authorised to serve subpoenas**

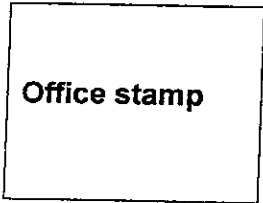
Serve this subpoena on:

Surname:	
Full names:	
ID. Number / date of birth:	
Home address:	
Home telephone number:	
Work address:	
Work telephone number:	

who is hereby subpoenaed by the court to appear in person before this court on the  
..... day of ..... 20 ..... at ..... (time) in the  
above-mentioned matter to give evidence and/or to produce the book/s, document/s  
or object/s specified in the list hereunder.

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE



**LIST AND DESCRIPTION OF BOOK/S, DOCUMENT/S OR OBJECT/S TO BE PRODUCED**

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....

**WARNING: A person who is subpoenaed as a witness or to provide a book, document or object and who fails to—**

- (a) attend or to remain in attendance at the proceedings;
- (b) appear at the place and on the date and at the time to which the proceedings in question may be adjourned;
- (c) remain in attendance at those proceedings as so adjourned; or
- (d) produce any book, document or object specified in the subpoena,

is in terms of section 7(3), read with section 18(3), of the Protection from Harassment Act, 2011, guilty of an offence.

\*\*\*\*\*

**FORM 19**  
 [Regulation 20(1)]  
**FINAL PROTECTION ORDER**  
 SECTION 9(1), (4) AND (6) OF THE PROTECTION FROM HARASSMENT ACT,  
 2011 (ACT NO. 17 OF 2011)

(\*Delete whichever is not applicable)

Take note: In terms of section 10(4) of the Protection from Harassment Act, 2011, the physical, home and work address of the complainant or related person must be omitted from the protection order (including any reference to such an address in documents annexed to the protection order), unless the nature of the terms of the order necessitates the inclusion of the address.

**IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....**

HELD AT .....	APPLICATION NO. .... / .....
In the matter between:	
..... (Complainant)	
AND	
..... (Respondent)	

**1. PARTICULARS OF RESPONDENT**

Name and surname: .....

Address: .....

.....

.....

Contact number (telephone number/cellular phone number/facsimile number/e-mail address (whichever is available)): .....

.....

.....

**2. PARTICULARS OF APPLICATION**

The complainant applied for a protection order against the respondent in terms of the Protection from Harassment Act, 2011 (Act No. 17 of 2011). This court, after considering the application, issued an interim protection order against the respondent on ..... (date).

**3. PARTICULARS OF FINAL PROTECTION ORDER**

- In terms of the protection order:
- 3.1 The respondent is prohibited by this court from –
- (a) engaging in or attempting to engage in the harassment of –
- \*(i) the complainant;
  - \*(ii) the following related person/s:
    - ▶ .....
    - ▶ .....
    - ▶ .....
    - ▶ .....
    - ▶ .....
- \*(b) enlisting the help of another person to engage in the harassment of the complainant and/or above related person/s; and/or
- \*(c) committing any of the following act/s:

- (i) .....
- .....
- (ii) .....
- .....
- (iii) .....
- .....

**\*3.2 The court imposes the following additional conditions that are necessary to protect and to provide for the safety and well-being of the complainant or related person/s:**

- (a) .....
- .....
- (b) .....
- .....
- (c) .....
- .....

**\*3.3 The court orders:**

<b>*(a)</b>	<p><b>That a member of the South African Police Service is to seize the following weapon/s: .....</b></p> <p>.....</p> <p>.....</p>
<b>*(b)</b>	<p><b>That a member of the South African Police Service is to accompany the complainant or related person to the following residence:.....</b></p> <p>.....</p> <p>.....</p> <p><b>to supervise the collection of the complainant's or related person's personal property set out in paragraph 8 of the application for a protection order, and such member is authorised to take all reasonable steps to effect the collection of the said property.</b></p>

**4. In terms of sections 9(6) and 15(a) of the Protection from Harassment Act, 2011,..... (name and surname), who is a \*clerk of the court/\*sheriff/ \*peace officer, is hereby directed to serve –**

- (a) the original of this protection order on the respondent; and**
- (b) a certified copy of this order and the original warrant of arrest on the complainant,**

**in accordance with regulation 28 of the Protection from Harassment Regulations, 2013.**

**5. This protection order expires on ..... (date).**

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE



Office stamp

**TAKE NOTE:**

- (a) A warrant of arrest has been authorised for the arrest of the respondent, the execution of which is suspended subject to the respondent's compliance with any specified prohibition, condition, obligation or order contained in this protection order.
- (b) A respondent who contravenes any specified prohibition, condition, obligation or order contained in the protection order is in terms of section 18(1)(a) of the Protection from Harassment Act, 2011, guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

\*\*\*\*\*

**FORM 20**  
 [Regulation 22]  
**WARRANT OF ARREST**  
 SECTION 11(1)(a) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....

HELD AT ..... APPLICATION NO. .... / .....

In the matter between:

..... (Complainant)

AND

..... (Respondent)

**TO ALL MEMBERS OF THE SOUTH AFRICAN POLICE SERVICE:**

The attached protection order was granted against the respondent by the Magistrate's

Court on the ..... day of 20..... ; and

Whereas the complainant has stated in the attached affidavit that the respondent has breached a prohibition, condition, obligation or order of the protection order, you are therefore hereby authorised and ordered to forthwith arrest the respondent in terms of section 11(4)(b) of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), if there are reasonable grounds to suspect that the complainant or related person is suffering or may suffer imminent harm as a result of the alleged breach of the protection order by the respondent.

GIVEN UNDER MY HAND AT ..... THIS ..... DAY OF ..... 20.....

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE



**Note to members of the South African Police Service:**

1. *In terms of section 11(5) of the Protection from Harassment Act, 2011, the member of the South African Police Service, in considering whether or not the complainant or related person is suffering harm or may suffer imminent harm, must take into account the -*
  - (a) *risk to the safety or well-being of the complainant or related person;*
  - (b) *seriousness of the conduct comprising an alleged breach of the protection order;*
  - (c) *length of time since the alleged breach occurred; and*
  - (d) *nature and extent of the harm previously suffered by the complainant or related person.*

2. *If the member of the South African Police Service is of the opinion that there are insufficient grounds for arresting the respondent on suspicion that the complainant or related person is suffering harm or may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, he or she must, immediately, hand to the respondent a written notice contemplated in section 11(4)(c) of the Protection from Harassment Act, 2011, which calls upon the respondent to appear before a court on the date and at the time specified in the notice, on a charge of committing the offence referred to in section 18(1)(a) of the Act.*

\*\*\*\*\*

**FORM 21**  
**[Regulation 23]**  
**AFFIDAVIT FOR PURPOSES OF FURTHER WARRANT OF ARREST**  
**SECTION 11(3) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....	
HELD AT .....	APPLICATION NO. .... / .....
In the matter between:	
..... (Complainant)	
AND	
..... (Respondent)	

\*Delete whichever is not applicable

<b>PART A : AFFIDAVIT</b>	<b>(To be completed by complainant)</b>
---------------------------	---

### 1. COMPLAINANT'S PARTICULARS

Surname:	
Full names:	
Identity number / Date of birth:	
Home or temporary address:	
Home/contact telephone number/s:	
Work address:	
Work telephone number:	
Occupation:	

### 2. PARTICULARS OF PROTECTION ORDER

A protection order was granted and a warrant of arrest authorised on:	(Date)
In the Magistrate's Court at:	
Against :	(Name of Respondent)



**PART B : CERTIFICATION (for official use)**

I 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 to taking the prescribed oath?  
Answer \_\_\_\_\_
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_

I 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\_\_.

**Justice of the Peace / Commissioner of Oaths**  
 Full Names: \_\_\_\_\_  
 Designation: \_\_\_\_\_  
 Area for which appointed: \_\_\_\_\_  
 Business Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\*\*\*\*\*

**FORM 22**  
**[Regulation 24]**  
**AFFIDAVIT REGARDING CONTRAVENTION OF PROTECTION ORDER**  
**SECTION 11(4)(a) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT**  
**NO. 17 OF 2011)**

In the matter between:

..... (Complainant)

**AND**

..... (Respondent)

\*Delete whichever is not applicable

**PART A : AFFIDAVIT (To be completed by complainant)**

breach of the protection order by the respondent:	..... ..... ..... .....
---	----------------------------------

\_\_\_\_\_  
Signature of complainant

\_\_\_\_\_  
Date

**PART B : CERTIFICATION** (for official use)

I 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 to taking the prescribed oath?  
Answer \_\_\_\_\_
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_

I 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\_\_.

\_\_\_\_\_  
**Justice of the Peace / Commissioner of Oaths**

Full Names: \_\_\_\_\_

Designation: \_\_\_\_\_

Area for which appointed: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

**FORM 23**  
**[Regulation 25]**  
**WRITTEN NOTICE TO APPEAR BEFORE COURT**  
**SECTION 11(4)(c) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)**

Notice must be completed in duplicate

CASE NO. \_\_\_\_\_

IN THE MAGISTRATE'S COURT FOR THE DISTRICT \_\_\_\_\_  
HELD AT \_\_\_\_\_ COURT \_\_\_\_\_  
DATE OF TRIAL \_\_\_\_\_

TO :

Name of accused:		
Home address:		
Sex:	Occupation:	Identity number/Date of birth:
Home/contact telephone number/s:		

You are hereby notified that you must appear personally before the above-mentioned court on the date stated above at 08:30 on the following charge:

**PARTICULARS OF CHARGE:**

You are guilty of the offence of contravening section 18(1)(a) of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), in that upon or about the ..... day of ..... and at or near ..... in the district of ..... you contravened a prohibition, condition, obligation or order imposed in terms of section 10(1) or (2) of that Act in that: .....

.....

.....

.....

.....

.....

.....

*Note: (1) Please produce this document to the clerk of the court on the date of trial.  
(2) By failing to appear before the court as notified you will be arrested in terms of a warrant of arrest already authorised by the court in terms of section 11(1)(a) of the Act.*

**CERTIFICATE:**

I, in my capacity as a member of the South African Police Service stationed at \_\_\_\_\_, hereby certify that I have handed the original of this notice to the accused mentioned therein at \_\_\_\_\_ (place) on \_\_\_\_\_ (date) and that I explained the contents thereof to the accused.

Name and surname of member: \_\_\_\_\_  
Rank: \_\_\_\_\_  
Persal number: \_\_\_\_\_

Signature of member: \_\_\_\_\_  
 Date: \_\_\_\_\_

\*\*\*\*\*

**FORM 24**

[Regulation 26]

**APPLICATION FOR VARIATION OR SETTING ASIDE OF PROTECTION ORDER**  
**SECTION 13(1) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT**  
**NO. 17 OF 2011)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....	
HELD AT .....	APPLICATION NO. .... / .....
In the matter between:	
..... (Applicant)	
AND	
..... (Respondent)	

**PART A : AFFIDAVIT** (To be completed by applicant)

**1. PARTICULARS OF APPLICANT**

Surname:	
Full names:	
Identity number / Date of birth:	
Home or temporary address:	
Home /contact telephone number/s :	
Work address :	



Work telephone number :	

**2. PARTICULARS OF RESPONDENT**

Surname:	
Full names:	
Identity number / Date of birth:	
Home or temporary address:	
Home /contact telephone number/s:	
Work address:	
Work telephone number:	

**3. PARTICULARS OF PROTECTION ORDER**

A protection order was granted on:	(Date)
In the Magistrate`s Court at:	
Against:	(Name of respondent)
Application Number:	

**A certified copy of the protection order is attached.**

**4. APPLICATION REGARDING PROTECTION ORDER**

*(\*Delete whichever is not applicable)*

I wish to apply for:	* (a) The setting aside of the protection order
	* (b) The amendment of the protection order as follows : ..... ..... ..... ..... .....

	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>The reasons for my request are:</p>	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

\_\_\_\_\_  
Signature of Deponent

\_\_\_\_\_  
Date

**PART B : CERTIFICATION** (for official use)

I 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 to taking the prescribed oath?  
Answer \_\_\_\_\_
- (c) Do you consider the prescribed oath to be binding on your conscience?  
Answer \_\_\_\_\_

I 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\_\_.

\_\_\_\_\_  
**Justice of the Peace / Commissioner of Oaths**

Full Names: \_\_\_\_\_

Designation: \_\_\_\_\_

Area for which appointed: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*\*\*\*\*

**FORM 25**  
**[Regulation 27]**  
**NOTICE OF VARIATION OR SETTING ASIDE OF PROTECTION ORDER**  
**SECTION 13(3) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT**  
**NO. 17 OF 2011)**

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF .....	
HELD AT .....	APPLICATION NO. .... / .....
In the matter between:	
.....	(Applicant)
AND	
.....	(Respondent)

\* Delete whichever is not applicable

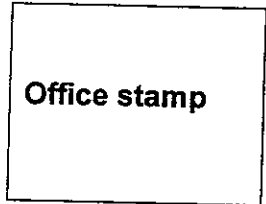
1. Whereas a protection order was granted on the ..... day of ..... 20..... in the Magistrate's Court of .....; and
2. Whereas the applicant has applied for the \*amendment /\*setting aside of the said protection order;
3. Therefore the court orders that -
  - 3.1 \*the protection order is set aside; or
  - 3.2 \*the protection order is amended as follows:

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

Dated at ..... this ..... day of ..... 20.....

MAGISTRATE \_\_\_\_\_

DATE \_\_\_\_\_



\*\*\*\*\*

**FORM 26**  
**[Regulation 29]**  
**STATEMENT TO BE COMPLETED BY PERSON WHO SERVES, FILES OR**  
**FORWARDS DOCUMENT BY FACSIMILE**

APPLICATION NO. .... / .....  
DIRECTION NO: .....

- (a) Date on which document was sent by facsimile .....
- (b) Time of sending facsimile .....
- (c) Facsimile number from which facsimile was sent .....
- (d) Person/organisation to which facsimile was addressed .....

I, ..... (name and surname)  
 ..... (identity number) employed as a .....  
 ..... (designation) at  
 ..... (employer) situated at the following  
 address:  
 .....  
 .....  
 .....  
 hereby declares as follows:

(a) I have sent the following document .....  
 ..... (description of the document)  
 with the following reference number ..... and which is dated .....  
 ....., to the following facsimile number .....

- (b) Subsequent to the sending of the above facsimile I —
- (i) obtained the attached transmission verification report as to whether the document was successfully transmitted to the facsimile number of the person/organisation; and
  - (ii) telephonically confirmed with a person who identified himself/herself as ..... (name and surname) who is employed at ..... as a ..... (designation) with the following identity number ....., that the facsimile was received by him or her.

Date: .....

Signature of person: .....

**Take note: In terms of regulation 29(3) of the Protection from Harassment Regulations, 2013, the document/s served, filed or forwarded in terms of regulation 29(1), the transmission verification report in terms of regulation 29(2)(a) and this statement must be kept as proof of service, filing or delivery.**

*ANNEXURE B*

**Directives issued in terms of section 20(1)(a) of the  
Protection from Harassment Act, 2011 (Act No. 17 of 2011)**

## PROTECTION FROM HARASSMENT DIRECTIVES

### A. General

1. The Protection from Harassment Act, 2011 (Act No. 17 of 2011) (the Act), provides for the issuing of protection orders against harassment. The Act extends the protection afforded under the Domestic Violence Act, 1998 (Act No. 116 of 1998), to persons not necessarily in a domestic relationship and provides additional recourse to persons who may in the past have applied in terms of section 348 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), for a binding over of a person to keep the peace.
2. These Directives are issued in terms of section 20(1)(a) of the Act which requires the National Director, in consultation with the Minister and after consultation with the Directors of Public Prosecutions, to issue directives regarding the institution of prosecutions in respect of any offence arising out of the Act. These directives only take effect after submission to Parliament.
3. Although prosecutors do not participate in applications for protection orders, prosecutors may advise complainants or other members of the public of the relief available in terms of this Act and the right to lay criminal charges with the South African Police. Persons who wish to apply for protection orders must be referred to the clerk of the court who submits the application and affidavits to the court.
4. Where relevant, prosecutors should also have regard to the Directives regarding Sexual Offences and Domestic Violence.

### B. Offences and penalties in terms of the Act

1. Section 18 of the Act creates a number of offences that may be committed by various persons.
2. Offences that may be committed by a respondent are the following:
  - (a) A respondent is any person against whom proceedings are instituted in terms of the Act.
  - (b) Section 18(1)(a) of the Act makes it an offence for a respondent to contravene any prohibition, condition, obligation or order imposed by a court in terms of a protection order or interim protection order.
  - (c) The sentence upon conviction is a fine or imprisonment for a period not exceeding five years.
  - (d) Furthermore, the court convicting a respondent of an offence must enquire and determine whether that person is unfit to possess a firearm in accordance with section 103(2) of the Firearms Control Act, 2000 (Act No. 60 of 2000).
3. Offences that may be committed by a complainant are the following:
  - (a) A complainant is any person who alleges that he or she is being subjected to harassment, and in the context of this offence, is a person in favour of whom a

- protection order or an interim protection order has been issued.
- (b) Section 18(1)(b) of the Act makes it an offence for a complainant to make a false statement in a material respect in an affidavit, which is handed to a member of the South African Police Service, together with the warrant of arrest, wherein it is stated that the respondent has contravened any specified prohibition, condition, obligation or order contained in a protection order.
  - (c) The sentence upon conviction is a fine or imprisonment for a period not exceeding five years.
4. Offences that may be committed by electronic communications service providers and their employees are the following:
- (a) An electronic communications service provider is an entity or person providing an electronic communications service, whether licensed or exempted from being licenced, such as telephone, cell-phone, or e-mail communications.
  - (b) Section 18(4)(a)(i) of the Act makes it an offence for such service provider, or an employee thereof, to fail to furnish the information required by the court to assist in establishing the identity or address of a respondent within five ordinary court days from the time of service of a direction or an extended period of five days allowed by the court.
  - (c) Section 18(4)(a)(ii) of the Act makes it an offence for such service provider or employee thereof, to make a false statement in a material respect, in an affidavit in response to a direction or request for additional evidence.
  - (d) Section 18(4)(ii) of the Act makes it an offence for a service provider not to inform the respondent at least 48 hours before providing the information to the court by means of an electronic communication, that such information is to be provided to the court, with the direction reference number and details of the court.
  - (e) The penalty in the case of a service provider is a maximum fine of R10 000, and in the case of an employee a fine or imprisonment not exceeding six months.
5. Offences that may be committed by others:
- (a) Section 18(1)(b) of the Act makes it an offence for any person to make a false statement in a material respect in an affidavit, wherein it is stated that the respondent has contravened any specified prohibition, condition, obligation or order contained in a protection order, which is handed to a member of the South African Police Service by the complainant together with the warrant of arrest.
  - (b) The sentence upon conviction is a fine or imprisonment for a period not exceeding five years.
  - (c) Section 18(2) of the Act makes it an offence for any person to reveal the identity or address of a person where the court has directed that the identity or address of such person may not be revealed.
  - (d) Section 18(2) of the Act also makes it an offence for any person to publish any information where the court has directed that no information relating to the proceedings may be published.
  - (e) The penalty on conviction of any of the above offences is a fine or imprisonment for a period not exceeding two years.
  - (f) Section 18(5) of the Act makes it an offence for any person requested to furnish his or her name and address or any other information to a member of the South



African Police Service to fail to do so, or furnish a false or incorrect name and address or other information.

(g) The penalty on conviction is a fine or imprisonment not exceeding six months.

6. The maximum fines that may be imposed must be calculated in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), as read with section 92(1)(b) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)<sup>1</sup>.
7. Admission of guilt fines may not be set for contraventions of section 18(1) of the Act.

### **C. Prosecution of respondents**

1. The offences committed by respondents are essentially contraventions of a court order. There may be varying degrees of non-compliance, which prosecutors should take into account in determining whether to prosecute the respondent in the district or regional court. Where respondents have committed other offences in addition to contravening this Act, these charges should also be included in the same case.
2. The existence of the court order is proved in accordance with the requirements of section 235 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). It is also necessary to prove that the respondent has knowledge of the protection order. This is usually proved through evidence of the return of service.
3. In the case of interim protection orders, these are of force and effect from the time of issue by the court and the existence thereof was brought to the attention of the respondent. Thus, evidence may be presented that the order was brought to attention of the respondent prior to service should this be necessary.
4. Protection orders are in force for a period of five years or a specific period determined by the court, which should be apparent from the order.
5. Prosecutors should treat complainants with fairness, compassion and respect. Prosecutors should ensure that complainants feel affirmed and supported by the system.
6. Prosecutors should avoid secondary victimisation resulting from inordinate and avoidable delays during the criminal trial. Prior to consultation and where possible, prosecutors should ensure the complainant receives court preparation by a court preparation officer (where available).

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<sup>1</sup> In terms of the Adjustment of Fines Act, 1991 read with Government Notice No. R. 63 of 30 January 2013 (GG 36111), as from 1 February 2013 a fine of R20, 000 is equated to imprisonment of 6 months. Thus, for a maximum penalty of three months the maximum fine would be R10, 000. For imprisonment not exceeding two years the maximum fine would be R80, 000. For a maximum of 5 years imprisonment the maximum fine would be R200, 000.

7. Prosecutors should also consider whether the following provisions of the Criminal Procedure Act, 1977, may be appropriate:
  - (a) Section 153, which provides for proceedings to be held *in camera*.
  - (b) Section 154, which provides for the prohibition of publication of certain information.
  - (c) Section 158(2), which provides that a witness may give evidence by means of closed circuit television or similar electronic media.
  - (d) Section 170A, which permits witnesses under the biological or mental age of 18 years to testify through intermediaries.
  
8. Where a respondent has been arrested by the South African Police Service and is in custody, prosecutors should generally oppose bail. The following considerations, that the member of the South African Police Service are required to take into account in deciding to arrest the respondent, are also relevant to bail:
  - (a) The risk to the safety or well-being of the complainant or related person.
  - (b) The seriousness of the conduct comprising an alleged breach of the protection order.
  - (c) The length of time since the alleged breach occurred.
  - (d) The nature and extent of the harm previously suffered by the complainant or related person.
  
9. Where a respondent was arrested by the South African Police Service, but released on bail prior to his or her first appearance by a police official, prosecutors should consider applying to court to add further conditions of bail in terms of section 62 of the Criminal Procedure Act, 1977.
  
10. Prosecutors must request the police to inform the complainants of the outcome of any bail application. If bail is granted, the court must be requested to impose special conditions relating to contact with the complainant. The complainant should also be informed of the procedure to be followed if the accused person contravenes any of the bail conditions.

#### **D. Prosecution of complainants**

In prosecution of complainants for making false statements in a material respect in an affidavit, prosecutors should have regard to the intended and actual consequences of the complainant's action in determining whether to prosecute the person in the district or regional court.

#### **E. Prosecution of electronic communication service providers and/or their employees**

1. In most instances the setting of an admission of guilt penalty will be appropriate.
2. Where there has been an intentional contravention, prosecutors should rather have the matter heard in court.

**F. Prosecution of offences committed by others**

1. The revealing or publication of information contrary to the direction of the court may have serious consequences for complainants in particular. Similarly, the making of a false statement in a material respect in an affidavit can have serious consequences for a respondent. Prosecutors should have regard to the intended and actual consequences of the particular action in determining whether to prosecute the person in the district or regional court.
2. The failure to furnish information or correct information to the South African Police Service is an offence that should be tried in the district court. Admission of guilt fines may be set for minor infringements.

**G. Failure to comply with these Directives**

Prosecutors who fail to comply with the directives will be dealt with according to the disciplinary codes of the National Prosecuting Authority.

# ANNEXURE C



## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2013

#### PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

#### DIRECTIVES IN TERMS OF SECTION 20(3) OF THE PROTECTION FROM HARASSMENT ACT, 2011

The Director-General: Justice and Constitutional Development has, in terms of section 20(3) of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), issued the directives in the Schedule.

#### Schedule

##### Definitions

1. In these directives any word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates—

“the Act” means the Protection from Harassment Act, 2011 (Act No. 17 of 2011);  
and

“the Regulations” means the Protection from Harassment Regulations, 2013, made in terms of section 19 of the Act and published as Government Notice No. R. .... in Government Gazette No. .... of .....

### **Compliance with the Act and Regulations**

2. Clerks of the court must—

- (a) obtain a working knowledge of, and be able to apply, the Act and the Regulations; and
- (b) comply with their obligations in terms of the Act, the Regulations and these directives.

### **Availability of clerk of court to receive applications for protection orders outside ordinary court hours or on a day which is not an ordinary court day**

3. (1) A clerk of the court must comply with any duty roster issued by the court manager or a person who has oversight responsibilities over a clerk of the court and in respect of which a clerk of the court is assigned to receive applications for protection orders outside ordinary court hours or on a day which is not an ordinary court day.

(2) If a clerk of the court is designated to perform duties in terms of the Act outside ordinary court hours or on a day which is not an ordinary court day, the clerk of the court—

- (a) must furnish a telephone number where he or she may be contacted; and
- (b) must at all times be able to make himself or herself available at the court building after he or she is contacted telephonically, within a reasonable time, to receive an application for a protection order and to perform any other duty imposed on a clerk of the court in terms of the Act, the Regulations and these directives.

(3) The clerk of the court is responsible for contacting a magistrate who has been designated to consider an urgent application for a protection order which is brought outside ordinary court hours or on a day which is not an ordinary court day.

**Assistance to be rendered by clerk of court to complainant or person who applies for protection order and who is not represented by a legal representative**

4. (1) In terms of section 2(2) of the Act and regulation 2 of the Regulations it is imperative that the information notice (Form 1 of the Annexure to the Regulations), be handed to the complainant or person who applies for a protection order on behalf of the complainant (hereinafter referred to as "the person") and who is not represented by a legal representative.

(2) The information notice must be furnished to the complainant or the person in the official language of the complainant or the person's choice, if available. If the information notice is not available in the official language of the complainant or the person's choice, the clerk of the court must—

- (a) make use of an interpreter to translate the information notice for the complainant or the person; and
- (b) make a note on the information notice that the content thereof was translated for the complainant or the person.

(3) If the complainant or the person is unable to read the information notice, the clerk of the court must read out or cause the information notice to be read out to the complainant or the person.

(4) After the complainant or the person has read the information notice, or after it has been read to the complainant or the person, the clerk of the court must enquire from the complainant or the person whether he or she understands the contents of the information notice. The clerk of the court must, to the best of his or her ability, further explain to the complainant or the person any part of the information notice which the complainant or the person does not understand.

(5) The signature of the complainant or the person must be placed on the appropriate part of the information notice that there has been compliance with regulation 2 of the Regulations and this part of the information notice must be placed on the court file if the complainant or the person proceeds with the application.

**Assistance to be rendered by clerk of court to complainant or the person not represented by legal representative in completion of application for protection order**

5. (1) If the complainant or the person is a child, illiterate or can for some or other reason not complete the application form for a protection order (Form 2 of the Annexure to the Regulations), the clerk of the court must complete the application form on behalf of the complainant or the person.

(2) If a clerk of the court completes the application form on behalf of a complainant or the person as contemplated in subdirective (1), the clerk of the court must, after completion of the application form ensure that the application form is read out to the complainant or the person and that the complainant or the person acknowledges the correctness of the content thereof before completing Part B of the application form.

(3) The clerk of the court must pertinently bring it to the attention of the complainant or the person not represented by a legal representative that—

- (a) supporting affidavits of persons who have knowledge of the matter may accompany the application; and
- (b) evidence which may have a bearing on the harassment, may in the manner set out in paragraph 4 of the application for a protection order, be submitted to the court.

#### **General duties of clerk of court on receipt of application for a protection order**

6. (1) The acknowledgement of receipt of the application for a protection order (forming part of Form 2 of the Annexure to the Regulations), must be completed by the clerk of the court and be handed to the complainant.

(2) Parts C of the application for a protection order must be completed by the clerk of the court.

#### **Submission of application for protection order to court**

7. When submitting the application for a protection order and any accompanying affidavits to the court, the clerk of the court must complete Part D of the application for a protection order form.

#### **Confidentiality of documents**

8. Appropriate steps must be taken by clerks of the courts to ensure the confidentiality of all documentation that relates to proceedings in terms of the Act.

**Service and forwarding of documents by clerks of court**

9. (1) Clerks of the court must adhere strictly to timeframes provided for in the Act for the service or forwarding of documents.

(2) Where no specific time frame is provided for the service or forwarding of documents, such documents must be served or forwarded without delay.

**Disciplinary steps for failure to comply with directives**

10. (1) The failure of a clerk of the court to comply with these directives constitutes an act of misconduct.

(2) Chapter 2 of the Public Service Regulations, 2001, and the Disciplinary Code and Procedures for the Public Service (Resolution 2 of 1999), apply to an act of misconduct contemplated in subdirective (1).