

**INVITATION TO COMMENT ON THE PROTECTION FROM HARASSMENT
REGULATIONS: DEADLINE FOR COMMENT 29 FEBRUARY 2012**

Interested parties are invited to comment on the Protection from Harassment Regulations (the Regulations). Any person wishing to comment on the Regulations is invited to submit written comments to the Department of Justice and Constitutional Development on or before 29 February 2012. Comments should be directed for the attention of S J Robbertse and -

- (a) if it is forwarded by post, be addressed to
The Department of Justice and Constitutional Development
Private Bag X81
PRETORIA
0001
- (b) if delivered by hand, be delivered at -
Momentum Building
329 Pretorius Street
PRETORIA
- (c) if it is delivered by E-mail, it be delivered to **srobbertse@justice.gov.za**
- (d) if it is faxed, it be faxed to **086 648 3326**



GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.

2012

REGULATIONS IN TERMS OF THE PROTECTION FROM HARASSMENT ACT, 2011

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

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have 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 the clerk of the court must inform the complainant or person not represented by a legal representative (Section 2(2) of the Act)

2. For purposes of section 2(2) of the Act, the clerk of the court must, if the complainant or person is not represented by a legal representative and before the complainant or person applies for a protection order —

- (a) hand a form which corresponds substantially with Form 1 of the Annexure to the complainant or person who must, if reasonably possible, be in the official language of the complainant's or person's choice;
- (b) read out or cause Form 1 of the Annexure to be read out to the complainant or person if the complainant or person is unable to read the notice;
- (c) inquire from the complainant or 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 person on request any part of Form 1 of the Annexure which the complainant or person does not understand; and
- (e) obtain the signature of the complainant or person to confirm that there has been compliance with this regulation.

FORM 1

[Regulation 2]

Information notice to complainant or person who applies for a protection order on behalf of a complainant

(Section 2(2) of the Protection from Harassment Act, 2011 (Act No. 17 of 2011))

1. This notice explains —
 - (a) the relieve that is available in terms of the Act; and
 - (b) your right 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 Regulations made in terms of that Act, and which obliges me —
 - (a) to hand this notice to you;
 - (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. 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.
5. Any child, or person on behalf of a child, may apply to the court for a protection order.
6. The Court will consider the application of the complainant or person 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.
7. 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.
8. 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 determined on good cause shown by the complainant.
9. 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.

10. In terms of the Act, 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.

11. Whenever a court issues an interim or final protection order, a warrant for the arrest of the respondent will be issued, but whose execution 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. 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.

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

13. 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.

14. **WARNING: 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.**

(Tear off and place on court file if the complainant proceeds with application)

Application Number:/20.....

Date:

Name and Surname of Clerk of the Court:

Name and surname of complainant:

.....
Signature of complainant

Manner for applying for a protection order (Section 2(1) of the Act)

3. A complainant or person on behalf of a complainant may in writing apply for a protection order on a form which corresponds substantially with Form 2 of the Annexure.

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:	
Work address:	
Work telephone number:	
Occupation:	

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

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Surname :	
Full names :	
Identity number:	
Date of birth:	
Home address :	
Home/contact telephone number :	
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 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**

<i>Name :</i>	<i>Age :</i>	Relationship to complainant

(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, photos, recordings, video's etc. —**

 - (i) the original thereof must at all times be kept by the complainant for purposes of submitting it as evidence in this application and a subsequent hearing that may take place;**
 - (ii) copies of documents and photos may be attached to this form as an annexure; and**
 - (iii) copies of audio recordings and videos may also be attached to this form as an annexure if it is furnished on a CD, DVD or other computer readable device and in a computer readable format and sealed in an envelope.)**
- (c) TAKE NOTE: All annexures to this document must be –**

 - (i) numbered alphabetically starting with “A”; and**
 - (ii) listed under paragraph 10, below.**

Give full details of all incidents of harassment:

[illegible]

5. PARTICULARS OF RESPONDENT (PERSON RESPONSIBLE FOR HARASSMENT OF THE COMPLAINANT OR RELATED PERSON):

***5.1 To be completed where the respondent is known to the complainant:**

Surname:	
Full names:	
Home address:	
Telephone number: Fax number: E-mail address:	
Work address:	
Occupation:	

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

The name of the electronic communications service provider which provides an electronic communications service to the subscriber who received the harassing communication (for example XYD Internet service provider which provides an internet service to the complainant who is the owner of the computer which received a harassing e-mail):	
The electronic communications identity number associated with the service to which the harassing communication was sent (for example the Internet Protocol (IP) address assigned to the computer of the complainant or cellular phone number or telephone number which received the harassing communication):	
The electronic communications identity number from where the harassing communication originated (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:	Yes	No
--	------------	-----------

(a) Description of respondent:

.....

.....

.....

.....

.....

.....

.....

.....

(b) Location where respondent can probably be found:

.....

.....

.....

(c) Any other information that might assist in the tracing of the respondent:

.....

.....

.....

.....

.....

.....

.....

.....

.....

6. INFORMATION REGARDING URGENCY OF APPLICATION

Submit the reasons why the Court has to consider the application as a matter of urgency:

.....

.....

.....

.....

.....

.....

The court is requested to —

7.1.1 engaging in or attempting to engage in harassment of the complainant or related person;

7.1.2 enlisting the help of another person to engage in harassment of the complainant or related person;

7.1.3 committing 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 or related person:**

(a)

.....

.....

(b) _____

.....

(c)

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

*(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 to the following residence:, to supervise the collection of the complainant's or related person's personal property set out in paragraph 8 , below, and such member is authorised to take all reasonable steps to effect the collection of the said property.	
*(c)	That the station commander of the police station must investigate the matter with the view to institute 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 photos".

.....
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:

.....

PART C: (To be completed by the clerk of the court):

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.

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

Signature of clerk of court:

Office stamp

Acknowledgement of receipt of application for a protection 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.

Name and surname of clerk of the court:

Signature of clerk of the court:

Date: Time:

Office stamp

Issuing of interim protection order (Section 3(2) of the Act)

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

FORM 3**[Regulation 4]****Interim protection order****Section 3(2) 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 Act, 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/fax number/e-mail address (whichever is available)):

.....

.....

2. PARTICULARS OF APPLICATION

The complainant applied for a protection order against the respondent. 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 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 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.
--	--

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 guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years.

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 5, 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 a 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 3(3) and 15(a) of the Act,
(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 a record of evidence noted on the respondent in accordance with **regulation 29**.

MAGISTRATE

DATE

Office stamp

Notice to show cause (Section 3(4) of the Act)

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 29**.

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)	

1. PARTICULARS OF RESPONDENT

Address:

.....

.....

.....

.....

(Contact number: telephone number/cellular phone number/fax 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 notice to the complainant and the court.

3.3 If the respondent does not appear on a 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.

In terms of section 3(4) and 15(a) of the Act, (name and surname), who is a *clerk of the court/*sheriff/ *peace officer is hereby directed to serve this interim notice, a certified copy of the application and supporting affidavits on the respondent in accordance with **regulation 29.**

MAGISTRATE

DATE

Office stamp

Service of interim protection order and warrant of arrest on complainant (Section 3(7) and 15(b) of the Act)

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 29**.

Direction to electronic communications service provider to furnish information to court and service (Section 4(1)(b) and (2) of the Act)

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 completed in duplicate of which —
- (a) the duplicate must be handed to the clerk of the court to be served on the electronic communications service provider in terms of **regulation 30**; and
 - (b) the original is to be filed in the court file.

FORM 5

[Regulation 7]

**DIRECTION TO 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. /

DIRECTION NO / 20

To:
(Electronic communications service provider)

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

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 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 a protection order must be issued as a result of the harassment of the complainant 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 are as follows:

3.1 Full names and surname:

3.2 Address:

.....

.....

4. Particulars of harassing electronic communications or electronic mail:

A. Name of electronic communications service provider and type of service/s rendered by electronic communications service provider which conveyed the harassing electronic communications or electronic mail to the complainant or related person	B. Electronic communications identity number/s associated with the service/s	C. Date of communication received by complainant or related person	D. Time of communication received by complainant or related person	E. Duration of communication received by complainant	F. Electronic communications identity number from which communication originated, where available

***5. To be completed where the electronic communications identity number from which the harassing conduct originated is available**

(Take note: Paragraph 5 must be used where the electronic communications identity number from which the harassing conduct originated from has been identified either by the complainant or by an electronic communications service provider under paragraph 6, below)

As indicated in paragraph 4, above, the electronic communications identity number/s from which the harassing conduct originated, has/have been identified (see item 4.F, above) and the electronic communications service provider is 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 to 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 or was not sent from the electronic communications identity number/s identified in Item 4.f to the electronic communications identity number/s furnished under Item 4.B.

***6. To be completed where the electronic communications identity number from which the harassing conduct originated is not available**

(Take note: Paragraph 6 must be used where the electronic communications service provider which provides a service to the complainant is requested to furnish information to the court to help with the identification of an electronic communications identity number from which the harassing conduct originated)

As is indicated in paragraph 4, above, the electronic communications identity number/s from which the harassing conduct originated, is/are not available and the electronic communications service provider is 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 which such electronic communications identity number/s has/have been assigned to if the person is 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 communications or electronic mail was/were or was/were not sent from the electronic communications identity number/s identified by the electronic communications service provider to the electronic communications identity number furnished under Item 4.B; or
- (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 item 4.F and the person/s to which the electronic communications identity number/s has/have been assigned to; 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 Act 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 Act apply to the court for —

- (a) an extension of the five court days 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 respondent or complainant; 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 Act 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).

10. In terms of section 4(2) of the Act, 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 by means of a fax transmission, in accordance with regulation 30, to the following fax number:

11. The information must be furnished to the court in the form of an affidavit, prescribed by regulation 8, which must be transmitted to the court by means of a fax transmission to the following fax number: in accordance with regulation 30, 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

13. 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 follow:

Fax number:

Telephone number:

Cellular phone number:

E-mail address:

Physical address:

.....

.....

Signature:

ID number:

Date:

(CONFIDENTIAL)

Manner in which electronic communication service provider must furnish information to the court (section 4(1)(b) of the Act)

8. On receipt of a direction an electronic communications service provider must complete the affidavit contemplated in **regulation 9** and file the affidavit with the clerk of the court in accordance with **regulation 30**.

Affidavit to furnish particulars to court (section 4(1)(b) of the Act)

9. An affidavit in terms of section 4(1)(b) of the Act must correspond substantially with Form 6 of the Annexure.

[Regulation 9]

AFFIDAVIT TO FURNISH INFORMATION TO COURT
SECTION 4(1)(b) OF THE PROTECTION FROM HARASSMENT ACT,
2011 (ACT NO. 17 OF 2011)

(CONFIDENTIAL)

The information contained in this document is confidential

APPLICATION NO. /20

DIRECTION NO. /20

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

Fax number:

From: (name and surname of designated person) of
(name of electronic communications service provider)

E-mail address:

Fax number:

Telephone number:

Physical address:

(*Delete where not applicable)

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

hereby states as follows:

(Mark in appropriate space with a cross)

The complainant identified in the direction is/was a client of (electronic communications service provider) as per electronic communications identity number/s furnished in Item 4.B of the direction.	
The complainant identified in the direction is not client of (electronic communications service provider) as per electronic communications identity number/s furnished in Item 4.B of the direction and an application will, in terms of section 4(3)(b)(ii) of the Act be made for the cancelation of the direction.	

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

(a) The electronic communications identity number/s from which the electronic communication communication/s originated as indicated in Item 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 to are as follow:

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

(b) The electronic communications identity number/s, provided in Item 4.F of the direction, contacted the electronic communications identity number/s set out in Item 4.B of the direction as indicated in the table below:

Electronic communications identity number from which communication originated	Electronic communications identity number contacted	Time and date of communication	Duration of communication

*2 With reference to paragraph 6 of the direction :

* (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 of the complainant set out in Item 4.B of the direction on the dates and times identified in Items 4.C and 4.D of the direction:

i. Electronic communications identity number from which communication originated	ii. Electronic communications identity number contacted	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 is/are assigned to the following electronic communications service provider/s:

.....

.....

.....

.....

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 / 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

Work Address

.....

.....

.....

*** PART B**

The following additional information is hereby provided which may be to the assistance of the court to identify the electronic communications identity number/identity/ address of the person from which the communication/s originated:

.....

.....

.....

.....

.....

Date:

Name and surname:

CONFIDENTIAL

10. (1) An application by an electronic communications service provider for the extension or cancellation of the direction, in terms of section 4(3)(b) of the Act, must be made in a form which corresponds substantially with Form 7 of the Annexure.

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

(Regulation 10)

APPLICATION FOR EXTENSION 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)

Fax number of clerk of the court:

From:
(Representative of electronic communications service provider)

Fax number of electronic communications service provider:

Phone number of designated person of electronic communications service provider:

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 days period for a further period of five court days within which the affidavit must, in terms of section 4(3)(a), be submitted to the court	*
(b)	cancellation of the direction on the ground that the electronic communications service provider does not provide an electronic communications service to the respondent	*
(c)	cancellation of the direction on the ground that the electronic communications service provider does not provide an electronic communications service to the complainant or related person	*
(d)	cancellation of the direction on the ground that the requested information is not available in the records of the electronic communications service provider	*

2. I, (name, surname and identity number) working as a (designation) at (name of electronic communications service provider) situated at the following address
....., in support of the application hereby states as follows:

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

.....
Signature of Deponent

.....
Date

(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

Dated at _____ this _____ day of _____ 20____.

Full Names:

Designation: _____

Area for which appointed:

Work Address: _____

Request for additional evidence by way of affidavit from an electronic communications service provider (Section 4(4)(b) of the Act)

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

(2) A request in terms of subregulation (1) must be served by the clerk of the court identified by the court on an electronic communications service provider in accordance with **regulation 30**.

(3) On receipt of a request the electronic communications service provider must furnish the requested evidence by way of an affidavit which corresponds substantially with of Form 9 of the Annexure, which must be filed with the clerk of the court in accordance with **regulation 30**.

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

Form 8
[Regulation 11(1)]

REQUEST FOR ADDITIONAL EVIDENCE

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

APPLICATION NO. /

DIRECTION NO/20.....

To:
(Electronic communications service provider)

(a) Fax 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 above-mentioned electronic communications service provider for –

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

(b)	cancellation of the direction on the ground that the electronic communications service provider does not provide an electronic communications service to the respondent	*
(c)	cancellation of the direction on the ground that the electronic communications service provider does not provide an electronic communications service to the complainant or related person	*
(d)	cancellation of the direction on the ground that the requested information is not available in the records of the electronic communications service provider	*

2. In order to consider the request set out in paragraph 1, above, the electronic communications service provider is hereby requested to give the following additional evidence in the form of an affidavit to this court:

[illegible]

3. I hereby direct Mr/Ms (name, surname, who is a clerk of the court), to serve this request, in accordance with **regulation 30**, on the electronic communications service provider by means of a fax transmission to the following fax 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 Protection of Harassment Regulations and which must be filed with the clerk of the court whose particulars appear in paragraph 5 of this request in accordance with **regulation 30**.

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

MAGISTRATE

DATE

Office stamp

5. TO BE COMPLETED BY THE CLERK OF THE COURT WHO IS DIRECTED BY THE COURT TO SERVE DIRECTION 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 follow:

Fax number:

Telephone number:

Cellular phone number:

E-mail address:

Physical address:

.....

.....

Signature:

ID number:

Date:

(CONFIDENTIAL)

Form 9

[Regulation 11(3)]

AFFIDAVIT TO FURNISH ADDITIONAL EVIDENCE TO COURT

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

(CONFIDENTIAL)

The information contained in this document is confidential

APPLICATION NO. /20

DIRECTION NO. /20

To: (name and surname of clerk of the court identified in the request for further evidence)

Fax number:

From: (name and surname of designated person) of (name of electronic communications service provider)

E-mail address:

Fax number:

Telephone number:

Physical address:

AFFIDAVIT NO: /20

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

.....

.....

.....,

hereby states as follows in response to the request for further evidence:

.....

.....

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Date _____

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 _____

Work Address _____

The information contained in this document is confidential
CONFIDENTIAL

Manner of informing electronic communications service provider of outcome of application (Section 4(4)(d) of the Act)

12. (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 accordance with regulation 30**.

FORM 10

[Regulation 12]

DECISION OF COURT

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

APPLICATION NO. /

DIRECTION NO / 20

To:
(Electronic communications service provider)

Fax 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. Your application in terms of section 4(3)(b) of the Act for -

successful	*
unsuccessful	*

[illegible]

DATE _____

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

PROVIDER

I (name and surname of person) am the person who is identified by the court in terms of paragraph 3 to serve this document on the electronic communications service provider. My contact details are as follow:

Fax number:

Telephone number:

Cellular phone number:

E-mail address:

Physical address:

.....

.....

Signature:

ID number:

Date:

Office stamp

List of electronic communications service providers (Section 4(7)(b) of the Act)

13. (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 under the attention of all courts by means of a Departmental communication.

Issuing of direction directing the station commander to determine name and address or other information of respondent and service of direction (Section 5(1)(b) of the Act)

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

(2) **Form 11** of the Annexure must be completed in duplicate and the original must be served by the clerk of the court or sheriff identified by the court in accordance with **regulation 29**.

(3) If service of the direction has been effected in terms of subregulation (2), the clerk of the court or the sheriff must complete paragraph 9 on the duplicate original of **Form 11** and file the form on the court file.

FORM 11

[Regulation 14]

**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 THE RESPONDENT**

**SECTION 5(1)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT
NO. 17 OF 2011)**

(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:

To be completed by the Magistrate:

1. On(date) an application for the issuing of an interim protection order against harassment of the complainant 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 a protection order must be issued as a result of the harassment of the complainant by a person whose identity and/or address is/are unknown to the complainant.

3. The particulars of the complainant 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 and to investigate the matter with a view to –

(a) determine the name and/or address of the respondent; and/or

(b) obtain 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 the prescribed manner 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) cancellation of the direction on the ground that after a reasonable investigation of the matter the South African Police Service was unable to –
 - * determine the name and/or address of the respondent; and/or
 - * 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 Act, 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.

8. The affidavit in terms of section 5(3)(a) or the affidavit in terms of section 5(3)(b), 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) Fax number of clerk of the court:

MAGISTRATE

DATE

9. 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 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 request on the following member of the South African Police Service who has identified himself/herself as:
 - * Name and surname:
 - * Rank:
 - * Persal number:

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:

Affidavit to furnish particulars to court (Section 5(3)(a) of the Act)

15. (1) An affidavit in terms of section 5(3)(a) of the Act must be in a form which corresponds substantially with Form 12 of the Annexure.

(2) The affidavit referred to in subregulation (1) must be filed with the clerk of the court in duplicate.

(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 received the affidavit must file the affidavit on the court file.

Form 12

[Regulation 15]

AFFIDAVIT 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 court identified in the direction)

From (Particulars of person making affidavit):

Name and surname:

Telephone number:

Physical address:

.....

.....

Persal number:

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

2.1 Name and surname of respondent:

2.2 Address of respondent:

[illegible]

Signature of Deponent

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 _____

Work Address _____

To be completed by the clerk of the court on receipt of the affidavit:

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

Signature of clerk of the court

Date

Application for extension or cancellation of direction by station commander (Section 5(3)(b) of the Act)

16. (1) An application by a station commander for the extension or cancellation of the direction, in terms of section 5(3)(b) of the Act, must be made in the form of an affidavit corresponding 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; or
- (b) by delivering the application in accordance with regulation 30 to the clerk of the court identified in the direction.

(3) If the application is filed with the clerk of 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 forthwith submit the affidavit to the Magistrate for consideration.

FORM 13
(Regulation 16)

APPLICATION FOR EXTENSION 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 16(2)(a), 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)

Fax number of clerk of the court:

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

Fax 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 -

(a)	an extension of the time period within which the affidavit must, in terms of section 5(3)(a), 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 respondent or obtain any other information which is required in order to identify or trace the respondent	*

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

.....

Signature of Deponent

Answer _____

Dated at _____ this _____ day of _____ 20____.

***To be completed by the clerk of the court on receipt of the affidavit filed in terms of regulation 16(2)(a):**

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

Signature of clerk of the court

Date

Request for additional evidence by way of affidavit from station commander (Section 5(4)(b) and (d) of the Act)

17. (1) A request for additional evidence in terms of section 5(4)(b) of the Act must be made on a form which corresponds substantially with Form 16 of the Annexure.

(2) The request in terms of subregulation (1) must be served by the clerk of the court or sheriff identified by the court in accordance with **regulation 29**.

(3) If service of the request has been effected in terms of subregulation (2), the clerk of the court or the sheriff must complete paragraph 6 of **Form 14** and file the duplicate original of the request on the court file.

(4) On receipt of a request the station commander must furnish the requested evidence by way of an affidavit in the 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; or

(b) by sending the affidavit by means of a fax to the fax number of the clerk of the court identified in the direction in accordance with **regulation 30**.

(5) If the affidavit in terms of subregulation 4(a) is delivered to the clerk of the court, 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 forthwith submit the affidavit to the Magistrate for consideration.

Form 14

[Regulation 17(1)]

REQUEST FOR ADDITIONAL EVIDENCE

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

(CONFIDENTIAL)

Note: This request must be completed in duplicate.

APPLICATION NO. /

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting practice. There are no margins, text, or other markings on the page.

.....

3. I hereby direct that Mr/Ms
 (name, surname and designation of
 person identified by the court to serve the request), must serve this request on the
 station commander identified in this request in accordance with **regulation 29**.

4. The responding affidavit of the station commander 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) Fax number of clerk of the court:

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 17(4)**, 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 fax to the fax number of the clerk of the court
 identified in this request in accordance with **regulation 30**.

MAGISTRATE

DATE

Office stamp

**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:
- * Persal number:

Signature of person on whom the request is served:

Persal number of person on which request is served:

Signature of clerk of the court/sheriff:

Date:

(CONFIDENTIAL)

Form 15

[Regulation 17(4)]

AFFIDAVIT TO FURNISH ADDITIONAL INFORMATION TO COURT
SECTION 5(4)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT
N0. 17 OF 2011)
(CONFIDENTIAL)

The information contained in this document is confidential

Note: If this affidavit is, in terms of regulation 17(4)(a), delivered to the clerk of the court it must be completed in duplicate.

APPLICATION NO. /20

DIRECTION NO. /20

To: (name and surname of clerk of the court identified in the request for further evidence)

Fax number:

From: (name and surname of station commander) of (name of police station)

Fax number:

Telephone number:

Physical address:

I, (name, surname and identity number), station commander of the (police station) situated at the following address.....

hereby states as follows in response to the request for additional evidence:

Date _____

Answer _____

Dated at _____ this _____ day of _____ 20____.

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

.....
Signature of clerk of the court

The information contained in this document is confidential

Manner of informing station commander of outcome of application (Section 5(4)(d) of the Act)

18. (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) Form 16 must be served by the clerk of the court identified by the court on a station commander in accordance with **regulation 30**.

FORM 16

[Regulation 18]

DECISION OF COURT

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

APPLICATION NO. /

DIRECTION NO / 20

To:
(station commander of the Police station.)

Fax 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 for -

(a)	an extension of the period within which the affidavit must, in terms of section 5(3)(a), 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 respondent or obtain any other information which is required in order to identify or trace the respondent	*

is -

successful	*
unsuccessful	*

2. The following reasons are provided why your application is unsuccessful:

[illegible]

3. I hereby order Mr/Ms
(name, surname) to serve this decision on the station commander of the
..... (police station) in accordance with regulation 30.

MAGISTRATE

DATE _____

6. TO BE COMPLETED BY CLERK OF THE COURT WHO IS DIRECTED BY THE COURT TO SERVE DECISION ON STATION COMMANDER.

I (name and surname) am the person who is identified by the court in terms of paragraph 3 to serve this document on the station commander. My contact details are as follow:

Fax number:

Telephone number:

Cellular phone number:

E-mail address:

Physical address:

.....

Signature:

ID number:

Date:

Affidavit by member of South African Police Service to provide information to court (Section 6(3)(b) of the Act

19. An affidavit in terms of section 6(3)(b) of the Act must correspond substantially with Form 17 of the Annexure.

AFFIDAVIT BY MEMBER OF THE SOUTH AFRICAN POLICE
SERVICE TO FURNISH INFORMATION TO THE COURT
SECTION 6(3)(b) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT
NO. 17 OF 2011)
(CONFIDENTIAL)

The information contained in this document is confidential

To: (name and surname of clerk of the court)

From: (rank, name and surname of member of South African Police Service)

Persal number:

E-mail address:

Fax number:

Telephone number:

Physical address:

AFFIDAVIT NO:/20.....

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

(a) On (date), the complainant made an affidavit that he or 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 was harassing the complainant.

(c) The matter was investigated in terms of section 6(1)(a) of the Protection of Harassment Act, 2011 (Act No. 17 of 2011), with a view to determine the name and address of the respondent.

(d) As a result of the investigation the following information of the respondent was obtained:

* Name and surname of respondent:

.....

* Address of respondent:

.....

.....

* The following additional information has been acquired in order to trace the respondent:

.....

.....

.....

Date _____

Answer _____

Subpoena of witness and production of book, document or object (Section 7(1) of the Act)

20. (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, it 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 served subpoena without delay be furnished to the clerk of the court who must file such document on the court file.

FORM 18
[Regulation 20]
SUBPOENA

SECTION 7(1) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

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 20(3) (name and surname of person identified by the court), is hereby ordered to hand this subpoena to the sheriff.

To: The Sheriff/Deputy Sheriff

Serve this subpoena on:

Surname :	
Full names :	
Id.No / 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 books, document or object specified in the list hereunder.

MAGISTRATE

DATE

Office stamp

LIST AND DESCRIPTION OF BOOKS, DOCUMENTS OR OBJECTS TO BE PRODUCED

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

WARNING: A person who is subpoenaed as a witness and/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 guilty of an offence.**

Final protection order (Section 9(1) and (4) of the Act)

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

FORM 19

[Regulation 21]

FINAL PROTECTION ORDER

**SECTION 9(1) and (4) OF THE PROTECTION FROM HARASSMENT ACT, 2011
(ACT NO. 17 OF 2011)**

(*Delete whichever is not applicable)

(Take note: in terms of section 7(4) of the Act, 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/fax number/e-mail address
 (whichever is available)):.....

2. PARTICULARS OF PROTECTION ORDER

In terms of the protection order:

2.1 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 the following act/s:**

(i)

(ii)

(iii)

***2.2 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)

***2.3 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 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.
--	--

8. In terms of section 9(6) and 15(a) of the Act,
(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 29**.

4. This protection order expires on (date).

MAGISTRATE

DATE

*Delete whichever is not applicable

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 guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years

Forwarding of documents to police station (Section 9(7) of the Act)

22. In terms of section 9(7) of the Act the protection order and the warrant of arrest may be forwarded to the police station of the complainant's choice —

- (a) in terms of **regulation 30**; or
- (b) by sending certified copies thereof by registered mail.

Issuing of warrant of arrest (Section 11(1)(a) of the Act)

23. The warrant of arrest contemplated in section 11(1)(a) of the Act must

correspond substantially with **Form 20** of the Annexure.

FORM 20
[Regulation 23]
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)	

<u>TO ALL MEMBERS OF THE SOUTH AFRICAN POLICE</u> <u>SERVICE:</u>
--

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;

Therefore you are 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
..... of 20.....

MAGISTRATE

DATE

Office stamp

Affidavit for further warrant of arrest

24. An affidavit contemplated in section 11(3) of the Act for purposes of obtaining a second or further warrant of arrest must correspond substantially to Form 21 of the Annexure.

FORM 21

[Regulation 24]

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)	

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

1. COMPLAINANT'S PARTICULARS

Surname :	
Full names :	
Identity number / Date of birth:	
Home or temporary address :	

Home/contact telephone number :	
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)

3. PARTICULARS OF RESPONDENT

Surname :	
Full names :	
Identity number / Date of birth:	
Home address :	
Home telephone number :	
Work address :	
Work telephone number :	

4. PARTICULARS OF APPLICATION

4.1 I require a *second/*further warrant of arrest for my protection.

[illegible]

Date _____

PART B : CERTIFICATION (for official use)

Answer _____

Area for which appointed

Work Address

*Delete whichever is not applicable

Affidavit regarding contravention of protection order (Section 11(4)(a) of the Act)

25. An affidavit contemplated 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 correspond substantially to Form 22 of the Annexure.

FORM 22**[Regulation 25]**

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)

PART A : AFFIDAVIT**(To be completed by complainant)****1. COMPLAINANT'S PARTICULARS**

Surname :	
Full names :	
Identity number / Date of birth:	
Home or temporary address :	

Home telephone number :	
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)
<p>* A copy of the Protection Order indicating what orders were made by the court and the original warrant of arrest are attached.</p> <p>*A copy of the Protection Order and/or the original warrant of arrest cannot be attached for the following reasons :</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>	
A certified copy of the Protection Order and warrant of arrest were forwarded to the following police station :	<p>.....</p> <p>.....</p>

3. PARTICULARS OF RESPONDENT

Surname :	
Full names :	
Identity number / Date of birth:	
Home address :	
Home telephone number :	
Work address :	

Date(s) of breach of protection order:	
Place(s) where breach of protection order took place :	
Full details on how any specified prohibition, condition, obligation or order contained in the protection order were breached :	
Reasons, if any, for believing that imminent harm may be suffered as a result of the breach of the protection order by the Respondent :	

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 _____

Work Address _____

***Delete whichever is not applicable**

Written notice to respondent to appear before court (Section 11(4)(c) of the Act)

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

(2) Any respondent who is called upon to appear before the court in accordance with a written notice referred to in subregulation (1) and who fails to-

(a) appear at the place and on the date and time specified in that notice; or

(b) remain in attendance at the proceedings,

shall be guilty of an offence and liable to the punishment prescribed under subregulation (4).

(3) The court may, if it is satisfied from the duplicate original of the notice referred to in section 11(4)(c) of the Act, that the notice was handed to the

respondent and that the respondent has failed to appear at the place and on the date and time specified in the notice, or if satisfied that the respondent has failed to remain in attendance at the proceedings concerned, issue a warrant for the respondent's arrest.

(4) The court may when the respondent is brought before it, in a summary manner, enquire into his or her failure so to appear or to remain in attendance and unless the respondent satisfies the court that his or her failure was not due to any fault on his or her part, convict him or her of the offence referred to in subregulation (2) and sentence him or her to a fine or to imprisonment for a period not exceeding 12 months.

FORM 23

[Regulation 26(1)]

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 no.:

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:

<p>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 the Act in that:</p> <p>.....</p> <p>.....</p>

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

*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 may be convicted of an offence and upon conviction be sentenced to a fine or imprisonment for a period not exceeding 12 months.*

CERTIFICATE:

I _____(rank and name), 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 respondent mentioned therein at _____(place) on _____(date) and that I explained the contents thereof to the respondent.

Name and surname of member: _____

Rank: _____

Persal number: _____

Signature of member: _____

Date: _____

Application for variation or setting aside of protection order (Section 13(1) of the Act)

27. (1) An application for the variation or setting aside of a protection order, in terms of section 13(1) of the Act, must correspond 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 notice referred to in subregulation (1) must be served by the clerk of the court by way of registered post in accordance with Rule 9 of the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa made in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985).

FORM 24

[Regulation 27]

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 (See paragraph 1, above)

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

2. PARTICULARS OF RESPONDENT

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	
Home telephone number :	
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)

A certified copy of the protection order is attached.

4. APPLICATION REGARDING PROTECTION ORDER

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

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:-

- Answer _____

- Answer _____

- 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____.

Full Names

Designation

Area for which appointed _____

Work Address _____

Notice of variation or setting aside of protection order

28. (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 handing it to them personally or sending it by registered mail.

FORM 25**[Regulation 28]**

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 against the respondent on the day of 20..... in the Magistrate's Court of; and
2. Whereas the *applicant/*respondent 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

Office stamp

Service of documents

29. (1) Service of any document in terms of the Act or these regulations, except where the Act or regulations provide otherwise, must without delay be effected 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 sending a certified copy of the document to that person by registered mail and endorsing the original document to this effect;
- (b) the sheriff in terms of the provisions of the Magistrate's Courts Act, 1944 (Act 32 of 1944), and Rules published in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985); or
- (c) a peace officer in terms of the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), relating to the service of subpoenas.

(2) The clerk of the court sending a copy of the document 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.

Service, filing, delivery or forwarding of a document by facsimile

30. (1) The service, filing, delivery or forwarding of a document by means of facsimile is effected by sending the document by facsimile 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 fax was received by him or her;
- (c) obtain a facsimile receipt in the form which substantially corresponds with Form 26 of the Annexure from the person to whose facsimile number the document was sent by facsimile; and
- (d) complete the relevant parts of the facsimile receipt.

(3) A person receiving a facsimile in terms of subregulation (1) must –

- (a) complete the relevant parts of the facsimile receipt;
- (b) send the facsimile receipt to the facsimile number from which the document originated or any other facsimile number specifically specified in the document; and
- (c) contact the person who in terms of subregulation (1) served, filed, delivered or forwarded the document by facsimile as to enquire whether he or she has received the facsimile receipt.

APPLICATION NO. /

Magistrate's court for the district of

To: (name and surname of person to which facsimile is addressed)

To be completed by person receiving facsimile:

The document with the following identification numbers -

(a) DIRECTION NO:

(b) APPLICATION NO:,

which was sent through to the following facsimile number....., was received on (date) at (time), by (name and surname of person receiving facsimile), employed at

Signature of person receiving facsimile:

ID number:

Date:

Contact details of person receiving fax:

Telephone number:

Cellular phone number:

E-mail address:

Physical address:

.....

.....

TO BE COMPLETED BY PERSON WHO SERVED, FILED, DELIVERED OR FORWARDED A DOCUMENT BY FACSIMILE

I, (name and surname) hereby certify that:

(a) I have sent (description of the document) with the following identification numbers -

(i) DIRECTION NO:

(ii) APPLICATION NO:,

to the following facsimile number

(b) Subsequent to the sending of the above facsimile I telephonically confirmed with a person who identified himself as: that the fax was received by him or her.

(c) A person who identified himself/herself as working at phoned me on (date) at (time) to confirm whether I was the responsible person who sent the document per facsimile and whether I have received this document.

Date:

Signature of person:

Costs relating to the service of documents (Section 19(1)(d) of the Act)

31. The complainant or respondent who requires a document to be served in terms of the Act or these regulations shall be responsible for the costs of such service: Provided that the clerk of the court may, after consideration of such proof as he or she may require, direct that the State must be responsible for the costs of any service in terms of the Act or these regulations if he or she is satisfied that the complainant or respondent as the case may be, or both the complainant and respondent, do not have the means to pay for such costs at the time when service is required.

Short title

32. These regulations shall be called the Protection from Harassment Regulations, 2012, and shall come into operation on 2012.