

NORTHERN TERRITORY OF AUSTRALIA

DOMESTIC VIOLENCE REGULATIONS

As in force at 1 May 1995

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 1995

DOMESTIC VIOLENCE REGULATIONS

Regulations under the *Domestic Violence Act*

1 Citation

These Regulations may be cited as the *Domestic Violence Regulations*.

2 Commencement

These Regulations shall come into operation on the commencement of the *Domestic Violence Act 1992*.

3 Reference to form

A reference to a form by number is a reference to the form so numbered in Schedule 2.

3A Service of applications

An application under the Act may be served on the defendant personally or by leaving a copy for the defendant at his or her last or most usual place of abode or of business with some other person who is apparently an inmate or employed at that place and who has apparently attained the age of 16 years.

4 Declaration of service of document

Where a person serves a summons or order for the purposes of the Act, the person shall, as soon as practicable, complete a declaration of service in accordance with Form 1 and file it at the registry of the Court where the matter was or is to be dealt with.

5 Table of forms

Forms 2 to 10 inclusive are to be used for the purposes of the Act by reference to and in accordance with the Table in Schedule 1.

Schedule 1

regulation 5

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Schedule 2

regulations 4 and 5

FORM 1

regulation 4

NORTHERN TERRITORY OF AUSTRALIA

Domestic Violence Act

UNATTESTED DECLARATION OF SERVICE

I,
Name

of
Contact address

declare that I did

at
Time

on
Date

at
Place

- serve the attached summons
- serve the attached order

- personally on the defendant:
I said: What is your name?
He/she* said:

- by leaving it for the defendant:
at the defendant's:

- last known
- most usual

place of:

- residence
- business

with some other person apparently:

- resident
- employed

at that place and apparently not less than 16 years of age.

I said: What is your name?

He/she* said:

I said: Do you live/work* here?

He/she* said:

I said: How old are you?

He/she* said:

* Delete if inapplicable

- o it was properly addressed and posted by AR Security Post to the defendant:
 - at the defendant's:
 - o last known
 - o most usual
 - place of:
 - o residence
 - o business
 - o and the defendant has acknowledged receipt of the mail containing the order in accordance with postal procedures;
- o its existence and terms were made known orally or in writing to the defendant by a member of the Police Force;
- o it was served in such other manner as the Court or a Magistrate orders, namely:

.....
Signed

FORM 2

NORTHERN TERRITORY OF AUSTRALIA

Domestic Violence Act

section 4

APPLICATION FOR RESTRAINING ORDER

APPLICANT:

+

DEFENDANT:

+

BASIS OF APPLICATION:

RESTRAINING ORDERS YOU WANT THE COURT OR THE CLERK (the Registrar of the Local Court) TO MAKE:

DETAILS OF CONDUCT OF PERSON TO BE RESTRAINED:

+ Insert name and address.

ORDERS IN FORCE NOW:

- (1) Is there any order(s) in force between you/the person on whose behalf the application is made* and the person to be restrained?

(This might be an order of the Family Court, such as a custody or access order, or any other type of court order.)

YES / NO (Delete whichever does not apply)

- (2) If yes:

- (a) Attach a copy of the order(s) (if you can); or

- (b) If a copy of an order is not attached, give the following details:

Name of court which made the order:

Where is that court?

Date order was made:

What does the order say?

Signature

Date

Place

*Delete if inapplicable

NOTICE TO PARTIES

An application has been made asking the Court of Summary Jurisdiction or the Clerk to make a restraining order against the defendant.

THE APPLICATION WILL BE DEALT WITH:

by the Court of Summary Jurisdiction or the Clerk
at in the Northern Territory on
at a.m./p.m.*

The defendant must attend the hearing at the court on the day set out above if he/she* wishes to defend the application.

IF THE DEFENDANT DOES NOT ATTEND AT COURT, the Court or the Clerk may make the orders set out in the application or other similar orders in his/her* absence.

ANY ORDER MADE can be registered in another State or Territory without further notice to you and can be enforced there.

Clerk/Police Officer
Date
Place

*Delete if inapplicable

FORM 3

NORTHERN TERRITORY OF AUSTRALIA

sections 4, 8, 18 and 20

Domestic Violence Act

ORDER

Applicant:

+

Defendant:

+

Date of Application:

The Court/the Clerk* hereby orders:

Dated

.....
Magistrate/Clerk of the Court*

This order shall, unless it is sooner revoked or varied, continue in force to and including the

day of 19

+ Insert name and address.

* Delete if inapplicable.

TAKE NOTICE that:

- non-compliance with this order renders you liable to a term of imprisonment for not more than 6 months or to a fine of not more than \$2,000 for a first or second offence; for a third or subsequent offence you would be liable to a mandatory term of imprisonment for not less than 7 days or more than 6 months.
- upon registration this order is also enforceable in other Territories and States of Australia, BUT ONLY IF registered under the relevant law of those Territories or States.

* Fill in this part where the Clerk, with the consent of the defendant and the person making the application or on whose behalf the application is made, makes the order.

I, (defendant), consent to the above orders.

Signed

Dated 19....

I, (the person making the application or on whose behalf the application is made), consent to the above orders.

Signed

Dated 19....

*This part is not to be included unless the order is made by consent.

FORM 4

NORTHERN TERRITORY OF AUSTRALIA

Section 4(5)

Domestic Violence Act

SUMMONS TO A DEFENDANT TO SHOW CAUSE
PURSUANT TO SECTION 4(5)

TO:
(the defendant)
of

The attached application was made by
of
a member of the Police Force of the Northern Territory/a person who is in a
domestic relationship with you or a person making an application on behalf of
a person who is in a domestic relationship with you*
and on
a Court of Summary Jurisdiction or the Clerk (the Registrar of the Local Court)
at
made the attached order in your absence.

You are summoned to appear at the Court of Summary Jurisdiction
at in the Northern Territory on
at a.m./p.m.

to show cause why the attached order should not be confirmed.

Dated
at
in the Northern Territory.

.....
Clerk of the Court/Justice of the Peace

TAKE NOTICE that if you do not appear the order may be confirmed.

- Non-compliance with the order renders you liable to a term of imprisonment for not more than 6 months or a fine of not more than \$2,000 for a first or second offence; for a third or subsequent offence you would be liable for a mandatory term of imprisonment for not less than 7 days or more than 6 months.
- Upon registration the order is also enforceable in other Territories and States of Australia.

*Cross out whichever does not apply.

For the purposes of the Act, a person is in a domestic relationship with another person if he or she:

- (a) is or has been a relative of the other person (see section 3 of the *Domestic Violence Act*), including :
 - (i) a spouse, including a spouse of the person according to Aboriginal tradition, a former spouse of the person and a person of the opposite sex who is living or has lived with the person as if he or she were the spouse of the person although not married to the person; or
 - (ii) a relative according to Aboriginal tradition or contemporary social practice;
- (b) has or had the custody or guardianship of, or right of access to, the other person, or is or has been subject to the custody or guardianship of the other person or that other person has or has had a right of access to the person;
- (c) ordinarily or regularly resides or has resided with the other person, or with another relative, of the other person;
- (d) is or has been a relative of a child of the other person; or
- (e) has or has had a relationship with the other person, who is a member of the opposite sex.

FORM 5

NORTHERN TERRITORY OF AUSTRALIA

section 6

Domestic Violence Act

APPLICATION AND ORDER UNDER SECTION 6

I,
a member of the Police Force of the Northern Territory, state
that.....(the defendant)
of(address)
on the day of19.,
at..... in the Northern Territory, did (1)

o Assault or cause personal injury to, or damage to property in the
possession
of,.....
of.....(address).....,
being a person in a domestic relationship with the defendant (2), and in
particular
..... and unless restrained is likely to again assault
or cause personal injury or damage.

o Threaten to assault, to cause personal injury to, or to cause damage to
property in the possession of,.....
of.....(address).....,
being a person in a domestic relationship with the
defendant (2),.....

and unless restrained is likely to again make such a threat or carry out the
threat.

o Behave in a provocative or offensive manner (3)
towards.....
of.....(address)....., being a person in a domestic
relationship with the defendant (2), by
.....,

being behaviour that was likely to lead to a breach of the peace and unless
restrained is likely to again behave in the same or a similar manner.

There are in existence the following orders affecting the defendant and the
person in a domestic relationship with the defendant:

.....
.....
.....(4)

Application made by telephone on theday
of 19...., at o'clock
to.....
a Magistrate of the Northern Territory of Australia.

.....
Applicant to sign his/her copy

.....
Magistrate to sign his/her copy

ORDER

I,,
having heard an application under section 6(1) by a member of the Police
Force of the Northern Territory of Australia, order that the defendant: (5)

- o refrain from entering the premises situated at until
..... o'clock onor until such time as a further order
is made.
 - o refrain from assaulting or threatening to assault, or causing or
threatening to cause personal injury
to,.....of...(address).....
 - o refrain from causing or threatening to cause damage to property in the
possession of of...(address).....
 - o refrain from acting in a provocative or offensive manner (3)
towards..... of..... (address).....
 - o
- (Here describe any other restraints or orders imposed)

The reasons for making the order are that on the hearing of the application I
am satisfied that unless the order is so made the defendant will: (5)

- o again assault or cause personal injury to.....
or property in the possession of.....
- o again threaten, or carry out the threats that have been made
against.....
or the property of.....
- o again behave in a provocative or offensive manner (3) towards
.....

(Here describe other reasons)

- o
- o
- o

I further order that the order is returnable on the day of 19...., at a.m./p.m. at the Court of Summary Jurisdiction at in the Northern Territory of Australia to deal with the application, and be further dealt with according to law.

.....
Magistrate (6)

SUMMONS TO DEFENDANT

AND the defendant is summoned to appear at the above-mentioned time to be further dealt with according to law.

- o Applicant informed of terms of order.
- o Defendant informed of terms of order (including summons). (7)

.....
Magistrate/Member of the Police Force (6)

NOTICE TO DEFENDANT: If you do not appear at the above-mentioned time and place, the order may be confirmed. If you do not comply with the order you could be found guilty of an offence punishable by 6 months imprisonment or a fine of \$2,000 for a first or second offence; for a third or subsequent offence you would be liable to a mandatory term of imprisonment for not less than 7 days or more than 6 months.

Upon registration the order is also enforceable in other Territories and States of Australia, BUT ONLY IF registered under the relevant law of those Territories or States.

NOTES:

- (1) Tick and complete the applicable item. Only members of the Police Force can make applications under section 6.
- (2) For the purposes of the Act, a person is in a domestic relationship with another person if he or she:
 - (a) is or has been a relative of the other person (see section 3 of the *Domestic Violence Act*), including:
 - (i) a spouse, including a spouse of the person according to Aboriginal tradition, a former spouse of the person and a person of the opposite sex who is living or has lived with the person as if

he or she were the spouse of the person although not married to the person; or

- (ii) a relative according to Aboriginal tradition or contemporary social practice;
 - (b) has or had the custody or guardianship of, or right of access to, the other person, or is or has been subject to the custody or guardianship of the other person or that other person has or has had a right of access to the person;
 - (c) ordinarily or regularly resides or has resided with the other person, or with another relative, of the other person;
 - (d) is or has been a relative of a child of the other person; or
 - (e) has or has had a relationship with the other person, who is a member of the opposite sex.
- (3) Provocative or offensive behaviour that is likely to lead to a breach of the peace includes, but is not limited to, behaviour that may cause another person to reasonably fear violence to or harassment of himself, herself or another.
- (4) Here list the details of existing orders of any Court affecting the defendant and the person for whose benefit the order is being sought, e.g. Family Court/Home Detention.
- (5) Tick and complete the applicable item.
- (6) Magistrate/member of Police Force to sign his/her copy.
- (7) Tick both or whichever is applicable.
- (8) Upon registration this order is also enforceable in other Territories and States of Australia, BUT ONLY IF registered under the relevant law of those Territories or States.

FORM 6

NORTHERN TERRITORY OF AUSTRALIA

section 8

Domestic Violence Act

APPLICATION TO VARY OR REVOKE RESTRAINING ORDER

APPLICANT:

+

DEFENDANT:

+

DETAILS OF ORDERS TO BE VARIED OR REVOKED:

Attach a copy of the order. (If you do not have a copy of the order, you may obtain one from the Court of Summary Jurisdiction.)

VARIATION/REVOCAION OF EXISTING ORDER:

- (1) *If you want to add a new order(s) to the existing order, write out the new order(s) you want added.*
- (2) *If you want to omit an order(s) that is one of the existing orders, write out the order(s) you want omitted from the existing orders.*
- (3) *If you want an existing order(s) changed, write out the order(s) as you want it to be.*
- (4) *Do you want the existing order revoked?* YES / NO
(Delete whichever does not apply)

REASONS FOR VARIATION OR REVOCATION:

Briefly, what are your reasons for wanting to vary or revoke the order?

Signed
Date
Place

+Insert name and address.

NOTICE TO PARTIES

An application has been made asking the Court of Summary Jurisdiction to make a restraining order against the defendant.

THE APPLICATION WILL BE DEALT WITH:

by the Court of Summary Jurisdiction

at in the Northern Territory on
at a.m./p.m.

The defendant must attend the hearing at the court on the day set out above if he/she wishes to defend the application.

IF THE DEFENDANT DOES NOT ATTEND AT COURT, the court may make the orders set out in the application or other similar orders in his/ her absence.

ANY ORDER MADE can be registered in another State or Territory without further notice to you and can be enforced there.

Clerk/Police Officer*
Date
Place

*Delete if inapplicable

FORM 7

NORTHERN TERRITORY OF AUSTRALIA

section 11

Domestic Violence Act

DECLARATION

DEFENDANT'S DETAILS:

I, +

of

declare that I have formed the opinion that an interstate restraining order is in force against the defendant in the State of
on the following grounds:

.....

Signature of Police Officer

Date

Place

+Insert name and address.

FORM 8

NORTHERN TERRITORY OF AUSTRALIA

section 18

Domestic Violence Act

NOTICE OF REGISTRATION OF INTERSTATE RESTRAINING ORDER

DEFENDANT'S DETAILS:

(1)

TO: THE REGISTRAR (2)

ADDRESS:

AND TO: The Commissioner of Police

TAKE NOTICE THAT the attached order dated 19.. was registered in the Court of Summary Jurisdiction in the Northern Territory on at and was adapted and modified for its effective operation in the Territory in accordance with the order dated 19.. attached hereto.

Clerk of the Court
Date
Place

NOTES:

- (1) Name and address.
- (2) Details of Court where the interstate restraining order was made.

FORM 9

NORTHERN TERRITORY OF AUSTRALIA

section 20

Domestic Violence Act

APPLICATION TO CANCEL OR VARY INTERSTATE ORDER

1. APPLICANT:

+

2. DEFENDANT:

+

On
at
in the State / Territory* the attached restraining order
was made against the defendant.

TO THE COURT OF SUMMARY JURISDICTION
AT

I request that the attached order be varied*/cancelled* as follows:

.....
Signature of Applicant
Date
Place

+Insert name and address.

*Delete if inapplicable.

FORM 10

NORTHERN TERRITORY OF AUSTRALIA

section 20AA

Domestic Violence Act

SUMMONS TO A PERSON TO APPEAR OR TO APPEAR AND PRODUCE DOCUMENTS

TO:.....

(the person to be summoned)

of..... *(address)*

WHEREAS..... an application has been made by or on behalf of *(name of person by whom or on whose behalf an application was made)* of *(address of person for whom application made)* alleging that the defendant *(name of defendant)* did *(brief description of allegations against defendant)*.....

..... and it appears to the Court of Summary Jurisdiction at in the Northern Territory that you are*:

- (a) capable of furnishing information or giving evidence relevant to the application;
- (b) capable of producing the following documents relevant to the application:

[briefly describe the documents sought]

YOU are summoned to appear at/ appear and produce those documents to* the Court of Summary Jurisdiction atin the Northern Territory on..... at a.m./p.m.

Dated
at
in the Northern Territory.

.....
Magistrate /Clerk/ Justices of the Peace

NOTE: If you fail to comply with this summons without reasonable excuse you could be liable to a fine of \$2,000.

* Cross out whichever does not apply.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Domestic Violence Regulations (SL No. 51, 1993)***

Notified	22 December 1993
Commenced	1 January 1994 (r 2, s 2 <i>Domestic Violence Act 1992</i> (Act No. 67, 1992) and <i>Gaz G51</i> , 22 December 1993, p 3)

Amendments of Domestic Violence Regulations (SL No. 11, 1995)

Notified	12 April 1995
Commenced	12 April 1995

Amendments of Domestic Violence Regulations (SL No. 13, 1995)

Notified	28 April 1995
Commenced	1 May 1995 (r 2, s 2 <i>Domestic Violence Amendment Act 1994</i> (Act No. 60, 1994) and <i>Gaz S17</i> , 28 April 1995)

3**LIST OF AMENDMENTS**

r 3A	ins No. 11, 1995, r 1
r 4	amd No. 11, 1995, r 2
r 5	amd No. 13, 1995, r 3
sch 1	amd No. 13, 1995, r 4
sch 2	amd No. 13, 1995, r 5