

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1996, No. 60*

Regulations under the *Domestic Violence Act*

I, KEITH JOHN AUSTIN ASCHE, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Domestic Violence Act*.

Dated 16 December 1996.

K.J.A. ASCHE
Administrator

AMENDMENTS OF DOMESTIC VIOLENCE REGULATIONS

1. PRINCIPAL REGULATIONS

The Domestic Violence Regulations are in these Regulations referred to as the Principal Regulations.

2. COMMENCEMENT

These Regulations shall come into operation on the commencement of the *Domestic Violence Amendment Act 1996*.

3. SCHEDULE 1

Schedule 1 to the Principal Regulations is amended -

(a) by inserting before the item relating to section 11 of the Act the following:

"8A	Application to vary a restraining order by telephone	6A
8B	Summons to defendant to show cause pursuant to section 8A or 8B	6B

"; and

* Notified in the *Northern Territory Government Gazette* on 19 December 1996.

Government Printer of the Northern Territory
Price \$1.65

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(b) by adding at the end the following:

"20AE. Unattested declaration of service 1".

1. SCHEDULE 2

Schedule 2 to the Principal Regulations is amended -

(a) by omitting from Form 2 "(This might an order of the Family Court, such as a custody or access order, or any other type of court order.)" and substituting the following:

"(Here list the details of existing orders affecting the defendant and you that you know of: e.g. home detention orders, other restraining orders under this Act or orders under any other Act.

NOTE: In the case of any of the following matters under the Family Law Act 1975 of the Commonwealth, you need only list them if they require or authorise contact between a child and you or the defendant: contact orders (previously known as access orders), parenting plans, recovery of children orders, specific issues orders, injunctions under section 68B or 114 of that Act, undertakings accepted by the Family Court or recognisances entered into pursuant to an order under that Act.)";

(b) by omitting from Form 3 "Sections 4, 8" and "first or second offence; for a third or subsequent offence" and substituting "Sections 4, 8, 8B" and "first offence; for a second or subsequent offence" respectively;

(c) by omitting from Form 4 "first or second offence; for a third or subsequent offence" and substituting "first offence; for a second or subsequent offence";

(d) by omitting Form 5 and substituting the following:

"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)

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- 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.
- 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.
- 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 under this Act, the Family Law Act 1975 of the Commonwealth (to the extent specified in note (4)) or another Act, affecting the defendant and the person for whose benefit the order is sought:

.....
.....
.....(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

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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, unless this order is sooner varied or revoked, for a period of, the defendant is restrained from: (5)

- entering or remaining near the premises situated at until o'clock onor until such time as the Court further orders.
assaulting or threatening to assault, or causing or threatening to cause personal injury to,..... of....(address).....
causing or threatening to cause damage to property in the possession of of...(address).....
acting in a provocative or offensive manner (3) towards..... of..... (address).....

And I further order that -

- (other orders).....

(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)

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

(Here describe other reasons)

-

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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 and to enable the defendant to be summoned to appear before the Court to show cause why this order should not be confirmed.

.....
Magistrate to sign his/her copy (6)

SUMMONS TO DEFENDANT

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

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

.....
Magistrate to tick as applicable and sign his/her copy

.....
Member of the Police Force to tick as applicable and sign his/her copy

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 offence; for a second 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

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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 affecting the defendant and the person for whose benefit the order is being sought that the person knows of, e.g. home detention orders, other restraining orders under this Act or orders under any other Act.

NOTE: In the case of any of the following matters under the *Family Law Act 1975* of the Commonwealth, you need only list them if they require or authorise contact between a child and the person for whose benefit the order is being sought or the defendant: contact orders (previously known as access orders), parenting plans, recovery of children orders, specific issues orders, injunctions under section 68B or 114 of that Act, undertakings accepted by the Family Court or recognisances entered into pursuant to an order under that Act.

- (5) Tick and complete the applicable item.

_____";

(e) by omitting from Form 6 "Court of Summary Jurisdiction to make a restraining order" and substituting "Court of Summary Jurisdiction to vary or revoke a restraining order"; and

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(f) by inserting after Form 6 the following:

"FORM 6A

NORTHERN TERRITORY OF AUSTRALIA

Section 8A

Domestic Violence Act

APPLICATION AND VARIATION OF ORDER UNDER SECTION 8A

I, a member of the Police Force of the Northern Territory (1), state that.....(person on whose behalf application is made) of(address), a person in a domestic relationship (2) with the person in relation to whom the order(s) specified below is made, on the..... day of19..., at..... in the Northern Territory, did request me to seek a variation of the following order(s):

DETAILS OF ORDERS TO BE VARIED:

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 OF EXISTING ORDER:

- (1) *If a new order is to be added to the existing order, write out the new order.*
- (2) *If an existing order is to be omitted, write out that order.*
- (3) *If an existing order is to be changed, write out the order as it should read.*

(Delete whichever does not apply)

There are in existence the following orders under this Act, the Family Law Act 1975 of the Commonwealth (to the extent specified in note (3)) or another Act, affecting the defendant and the person for whose benefit the order is sought: (3)

REASONS FOR VARIATION:

Briefly, state the reasons the variation is sought.

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

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

.....
Member of Police Force
to sign his/her copy

ORDER

I,, having heard an application for a variation of an order under section 8A(1) by a member of the Police Force of the Northern Territory of Australia, vary the order as follows: (5)

The reasons for varying the order are that on the hearing of the application I am satisfied that:

I further order that this variation of an 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 and to enable the defendant to be summoned to appear before the Court to show cause why this order should not be confirmed.

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

SUMMONS TO DEFENDANT

AND the defendant is summoned to appear at the above-mentioned time to be further dealt with according to law and to show cause why this variation of an order should not be confirmed.

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

.....
Magistrate to tick
as applicable
and sign his/her copy

.....
Member of the Police Force
to tick as applicable
and sign his/her copy

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NOTICE TO DEFENDANT: If you do not appear at the above-mentioned time and place, the variation of the order may be confirmed. If you do not comply with the order as varied you could be found guilty of an offence punishable by 6 months imprisonment or a fine of \$2,000 for a first offence; for a second 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 variation of 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) Only members of the Police Force can make applications under section 8A.
- (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) Here list the details of existing orders affecting the defendant and the person for whose benefit the order is being sought that the person knows of, e.g. home detention orders, other restraining orders under this Act or orders under any other Act.

NOTE: In the case of any of the following matters under the *Family Law Act 1975* of the Commonwealth, you

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need only list them if they require or authorise contact between a child and the person for whose benefit the order is being sought or the defendant: contact orders (previously known as access orders), parenting plans, recovery of children orders, specific issues orders, injunctions under section 68B or 114 of that Act, undertakings accepted by the Family Court or recognisances entered into pursuant to an order under that Act.

"FORM 6B

NORTHERN TERRITORY OF AUSTRALIA

Sections 8A and 8B

Domestic Violence Act

SUMMONS TO A DEFENDANT TO SHOW CAUSE
PURSUANT TO SECTION 8A OR 8B

TO:.....

(the defendant)

of.....

The attached application to vary the order in force in relation to you 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 variation of the order (as attached) 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 variation of the 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 variation of the order may be confirmed.

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- Non-compliance with the order as varied 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 offence; for a second 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 as varied is also enforceable in other Territories and States of Australia.
- *Cross out whichever does not apply.

NOTE:

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.