

## ANNEXURE

### FORM 1 [Regulation 2]

#### INFORMATION NOTICE TO COMPLAINANT OR PERSON WHO APPLIES FOR PROTECTION ORDER ON BEHALF OF COMPLAINANT

#### SECTION 2 (2) OF THE PROTECTION FROM HARASSMENT ACT, 2011 (ACT NO. 17 OF 2011)

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

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

issue an interim protection order against the respondent.
8. An interim protection order is of force and effect from the time it is issued by the court and the existence thereof has been brought to the attention of the respondent. A copy of the application and evidence noted during the application will be served on the respondent, together with the interim protection order, and the respondent will

be called upon to show cause on the return date specified in the order why the interim protection order should not be made final. The protection afforded by an interim protection order is temporary in nature and will expire on the return date.

9. On the return date the court will hear the matter and may issue a permanent protection order which will be valid for a period of five years or such further period as the court may determine on good cause shown by the complainant.
10. The court may, by means of an interim or final protection order prohibit the respondent from-
  - (a) engaging in or attempting to engage in harassment;
  - (b) enlisting the help of another person to engage in harassment; or
  - (c) committing any other act as may be specified in the protection order.

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

11. In terms of [section 10 \(4\)](#) of the Protection from Harassment Act, 2011, the physical, home and work address of the complainant or related person must be omitted from the protection order, unless the nature of the protection order necessitates the inclusion of the address, and the court may issue any directions to ensure compliance with this provision of the Act.
12. Whenever a court issues an interim or final protection order, a warrant for the arrest of the respondent will be issued, but the execution of the warrant will be suspended subject to compliance with any prohibition, condition, obligation or order which the court may impose to prohibit the harassment of the complainant or related person. If the respondent contravenes any specified prohibition, condition, obligation or order contained in a protection order, the complainant may hand the warrant of arrest, together with an affidavit, wherein it must be stated that the respondent has contravened the protection order, to a member of the South African Police Service who must-
  - (a) if there is a possibility that the complainant may suffer harm, arrest the respondent; or
  - (b) if there is insufficient grounds for arresting the respondent, hand a written notice to the respondent to appear before a court,to answer to a criminal charge of contravening a protection order.
13. I will provide you with an application form if you want to apply for a protection order against harassment.
14. In addition to the application for a protection order you also have the right to lodge a criminal complaint against the respondent if the harassing conduct also amounts to an offence. It is, however, not necessary to lay a criminal charge in order to obtain a protection order.

15. WARNING:

- 15.1 It is a criminal offence to make a false statement in an affidavit-
  - (a) for the application for a protection order; or
  - (b) to the effect that the respondent has contravened a protection order.
- 15.2 The court may make an order as to costs against a party if it is satisfied that the party in question has acted frivolously, vexatiously or unreasonably.



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(Tear off and place on court file if the complainant or person who applies for a protection order on behalf of the complainant proceeds with the application)

(\*Delete whichever is not applicable)

**Application Number:**        /20

Date:

Name and surname of clerk of the court:

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

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