

M O N T S E R R A T

DOMESTIC VIOLENCE ACT 2020

No. 13 of 2020

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I ASSENT

(Sgd.) Andrew Pearce
Governor

DATE: 12.01.2021

M O N T S E R R A T

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AN ACT TO PROVIDE PROTECTION FOR VICTIMS OF DOMESTIC VIOLENCE AND TO MAKE PROVISION FOR THE GRANTING OF PROTECTION ORDERS AND FOR CONNECTED MATTERS.

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat and by the authority of the same as follows —

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the **Domestic Violence Act, 2020**.

2 Interpretation

(1) In this Act—

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“applicant” means a male or female person, including a child and a dependant who is or has been in a domestic relationship with the respondent and who applies or on whose behalf an application is made for an order under section 7;

“attorney-at-law” means an individual who has been admitted to practice law under the Legal Profession Act (Cap. 2.21);

“child” means a person under the age of eighteen years who—

- (a) normally resides on a regular or ongoing basis with the applicant or respondent, whether or not the child is a child of the applicant and the respondent or either of them;
- (b) is a biological child, an adopted child, a stepchild or a child who is treated as a child of the family;
- (c) is related by blood or affinity to either the applicant or the respondent;
- (d) is in the care and protection of the applicant or the respondent;
- (e) is a person for whom either the applicant or the respondent is a guardian; or
- (f) is or has been a member of a shared household,

but does not include a person who is or has been married or is a cohabitant;

“Children (Care and Adoption) Act” means the Children (Care and Adoption) Act (Cap. 5.04);

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“Clerk” means the Clerk of the Magistrate’s Court;

“Court” means the Magistrate’s Court;

“cohabitant” means a person who is living or has lived with a person of the opposite sex as a husband or wife although not legally married to each other and includes a former cohabitant;

“Constitution” means the Constitution of Montserrat (Cap. 1.01);

“Criminal Procedure Code” means the Criminal Procedure Code (Cap. 4.01);

“dependant” means a person over the age of eighteen years who by reason of physical or mental disability, age or infirmity is reliant on either the applicant or the respondent for his welfare;

“Director” means the Director of Social Services;

“domestic relationship” means a relationship between an applicant and a respondent in any of the following ways—

- (a) they are or were married to each other, including marriage according to any law, custom or religion;
- (b) they are cohabitants or were cohabitants;
- (c) they are the parents of a child or are persons who have or had parental responsibility for the child, whether or not at the same time;

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- (d) they are family members related by blood, affinity or adoption;
- (e) they would be family members related by affinity if the persons referred to in paragraph (b) were, or were able to be married to each other;
- (f) they are or were in an engagement, dating or visiting relationship which includes but is not limited to an actual or perceived romantic, intimate or sexual relationship of any duration; or
- (g) they share or shared the same household or residence;

“domestic violence” means an incident or pattern of behaviour in a domestic relationship that either individually or cumulatively –

- (a) is coercive or controlling or done with the intent of coercing or controlling a person; or
- (b) causes harm to or threatens to cause harm to the health, safety or well-being of a person,

and may include either or a combination of physical abuse, sexual abuse, emotional or psychological abuse or economic abuse;

“economic abuse” means the deliberate and unreasonable –

- (a) denial, deprivation, refusal to provide or restriction on access to necessary financial resources or assets, such as food, education, shelter, utilities, medical

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requirement or health aid or equipment that supports quality of life, in circumstances where there is a legal obligation to provide the financial resource or asset to a person or the child or dependant of a person;

- (b) imposition of financial hardship on a person by –
 - (i) preventing or hindering access to employment, education or the conduct of a person’s trade, profession or business; or
 - (ii) disposal, damage or destruction of property in which a person has an interest including personal item, household items and products or tools of trade, profession or business;

“emergency monetary relief” means compensation for monetary losses suffered by an applicant and any child or dependant at the time of the issue of an interim protection order as a result of domestic violence, including—

- (a) loss of earnings;
- (b) medical and dental expenses;
- (c) moving, relocation and accommodation expenses; or
- (d) household necessities and other interim expenses;

“emotional or psychological abuse” includes—

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- (a) threats of physical abuse, sexual abuse or damage to property;
- (b) intimidation, molestation or harassment of a person, including causing fear, pain, harm, torment or distress by –
 - (i) repeatedly following, pursuing, stopping or accosting the person in any place;
 - (ii) watching repeatedly or loitering outside or near a place where the person resides, works, conducts business, studies or otherwise tends to visit;
 - (iii) preventing or hindering access to or from a place where a person resides, works, conducts business, studies or otherwise tends to visit;
 - (iv) entering, remaining or being present on any land or building in circumstances that constitute a trespass;
 - (v) damaging, destroying or deprivation of property;
 - (vi) repeated verbal insults, ridicule and name calling; or
 - (vii) repeatedly sending or delivering or causing to be delivered letters, packages, objects, electronic messages and other communication to the person;

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- (c) the use of the internet or other electronic means to intimidate, harass, torment, repeatedly follow or pursue, embarrass, slander or defame a person including—
 - (i) the use lewd, lascivious, indecent or obscene images or language;
 - (ii) suggesting the commission of a lewd, lascivious, indecent or obscene act; or
 - (iii) threatening to injure or assault the person or to damage or destroy property of the person; or
- (d) the arbitrary deprivation of liberty, security, privacy or freedom of movement;

“*ex parte* application” means an application made without notice to the respondent;

“Family (Protection against Domestic Violence) Act” means the Family (Protection against Domestic Violence) Act (Cap. 5.05);

“final protection order” means a protection order made under section 15;

“firearm” has the meaning assigned to it under the Firearms Act (Cap. 10.02);

“Gazetted police officer” has the meaning assigned to it in the Police Act (Cap. 10.01);

“interim protection order” means a protection order made under section 8;

“Juveniles Act” means the Juveniles Act (Cap. 2.11);

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“member of the household” means a person who normally resides in the same dwelling house as the applicant or the respondent and is related to the applicant or respondent by blood, marriage or adoption;

“Minister” means the Minister with responsibility for social services;

“offensive weapon” includes any automatic rifle, bale hook, black jack, bludgeon, cutlass, dagger, flick knife, firearm, gravity knife, ice pick, iron bar of any description, knife, knuckle duster, open razor, pick handle, razor or razor blade, staff, stick, stone or sword and any object adapted for use as a weapon;

“order” includes an interim protection order issued under section 8 and a final protection order issued under section 15;

“physical abuse” means any act of assault;

“police officer” has the meaning assigned to it in the Police Act (Cap. 10.01);

“prescribed” means prescribed by Regulations;

“protection order” means an interim protection order issued under section 8 or a final protection order issued under section 15;

“public officer” has the same meaning as in the Constitution;

“respondent” means a male or female person who is or has been in a domestic relationship with the applicant and against whom the applicant has applied for or obtained an order under this Act;

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“**sexual abuse**” means any sexual conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the applicant;

“**shared household**” means a household where the applicant and the respondent live or lived together in a domestic relationship;

“**social worker**” means a person designated as such to work in or for the Department of Social Services;

“**spouse**” includes a former spouse;

“**victim**” means a person who alleges to have been subjected to an act of domestic violence;

“**visiting relationship**” means a non cohabitational relationship which is otherwise similar to the relationship between a husband and wife.

- (2) In the definition of “**domestic violence**”, threats, intimidation or harassment include threats, intimidation or harassment on the Internet or by other electronic means.

3 Domestic violence prohibited

- (1) A person shall not engage in any conduct that constitutes domestic violence.
- (2) A person who engages in any conduct that constitutes domestic violence commits a domestic violence offence, and is liable to a fine of \$5,000 or three years’ imprisonment or to both.

4 Duty to inform victim and applicant of rights

- (1) A police officer at the scene of an incident of domestic violence or when the incident of domestic violence is reported shall—
- (a) inform the victim of the matters stated in Schedule 1; and
 - (b) deliver to the victim a written copy of information stated in Schedule 1 as soon as possible after the incident occurs or the incident is reported.
- (2) A police officer who receives a report of a breach of a protection order from an applicant or a victim shall inform the applicant or the victim of the right to lodge a concurrent complaint against the respondent if a criminal offence appears to have been committed against the applicant, the victim or a child.

5 Arrest by police officer without warrant

If a police officer reasonably suspects that a person has committed an act of domestic violence, involving physical abuse, sexual abuse or the damage or destruction of property, the police officer may arrest the person at the scene of the incident of domestic violence, without a warrant.

6 Particular safeguards for detention of child

- (1) Despite any other provision of this Act, if the person taken into police custody under section 5 is a child, the Juveniles Act, Children (Care and Adoption) Act or any other law which applies to the care and protection of children or child justice, shall also apply together with this section.

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- (2) The child shall be taken into police custody only as a last resort and for the least time that is justified in the circumstances.
- (3) The child shall be held in police custody only in a way that allows the child to be held separately from any adult being held in police custody at the same place.
- (4) A police officer shall notify the following persons that the child has been taken into police custody—
 - (a) a parent or guardian of the child, unless a parent or guardian cannot be found after making all reasonable enquiries; or
 - (b) if the Director has assumed responsibility of the child under the Children (Care and Adoption) Act, the Director or a person nominated by the Director for that purpose.
- (5) This section does not apply in relation to a child if a police officer believes on reasonable grounds that the child is an adult.
- (6) In deciding whether the police officer had the reasonable grounds mentioned in subsection (5), the Court may have regard to the child's apparent age and the circumstances of the child's detention.
- (7) In this section, "**police custody**" includes custody by the police in any assessment centre or secure residential facility.

PART 2—PROTECTION ORDERS

7 Application for protection order

- (1) An applicant may apply to the Court, in the form set out as Form 1 in Schedule 2, for a protection order on the grounds that the

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respondent has committed an act of domestic violence.

(2) A child or dependant may apply for a protection order under subsection (1) through—

(a) a person with whom the child or dependant ordinarily or periodically resides or resided with or is reliant on for his or her welfare or any adult member of his or her household;

(b) a parent or guardian or a person who is in *loco parentis* to the child; or

(c) the Director or other person who has parental responsibility for the child.

(3) An application made under subsection (1) may, subject to subsection (4), be brought on behalf of a victim by any other person who has a material interest in the well-being of the victim, including—

(a) a *Gazetted* police officer,

(b) the Director,

(c) a probation officer; or

(d) a social worker,

but the application may only be brought with the consent of the victim.

(4) A victim's consent in subsection (3), shall be dispensed with if the victim is—

(a) a child;

(b) a dependant;

(c) physically or mentally incapacitated by unsoundness of mind or a disability;

(d) unconscious;

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- (e)* under the influence of intoxicating liquor or is misusing drugs; or
 - (f)* a person who the Court has determined is unable to provide the required consent.
- (5)** An application under subsection (1) may be brought outside the ordinary hours of the Court or on a day which is not an ordinary day for the sitting of the Court.
- (6)** An application under subsection (1) shall be accompanied by an affidavit in support unless the Court otherwise orders and an affidavit shall include—
 - (a)* the facts on which the application is based;
 - (b)* the nature of the order applied for; and
 - (c)* the police station at which the applicant is likely to report any breach of the order.
- (7)** An application made under subsection (1) may be accompanied by supporting affidavit of a person who has knowledge of the matter concerned.
- (8)** The applicant may request that his or her physical address be omitted from the protection order.
- (9)** The application and affidavits shall be lodged with the Clerk, who shall immediately submit the application and the affidavits for consideration by the Court.
- (10)** In considering an application made under subsection (1), the Court—
 - (a)* may require further oral evidence or evidence by affidavit; and
 - (b)* shall record any oral evidence referred to in paragraph *(a)*.

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(11) If the respondent is a child the Court shall have due regard to the Juveniles Act, Children (Care and Adoption) Act, any other law which applies to the care and protection of children or child justice, in making an order under this section.

8 Power of Court to issue interim protection order

(1) If the Court is satisfied that the respondent is committing, or has committed or is likely to engage in conduct that would constitute an act of domestic violence, the Court shall issue an interim protection order against the respondent, in accordance with Form 2 in Schedule 2.

(2) The Court may issue an interim protection order, on an *ex parte* application pending the hearing and determination of the proceedings for a protection order, if it appears necessary or appropriate to do so in order to ensure the safety and protection of the applicant.

(3) In exercising its powers under this section, the Court shall not refuse to issue an interim protection order by reason of the fact that the respondent has not been given notice of the proceedings.

(4) An interim protection order issued under this section shall—

(a) be served on the respondent; and

(b) call on the respondent to show cause on the return date specified in the interim protection order as to why the interim protection order should not be confirmed.

(5) The return date referred to in subsection (4) shall be at least ten days after the date of the service, under section 13, on the respondent of the interim protection order.

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- (6) An interim protection order may be made for a period of time as the Court considers necessary but shall not exceed twenty-eight days.
- (7) An interim protection order is automatically extended for a period of fifteen days if the Court is unable to hear and determine the proceedings before the expiry of the period in subsection (6).

9 Terms of protection order

- (1) In granting an interim protection order under section 8 or a final protection order under section 15, the Court may prohibit the respondent from—
 - (a) committing any act of domestic violence;
 - (b) enlisting the help of a person to commit any act of domestic violence;
 - (c) entering the shared household, except that the Court shall only impose this prohibition only if it appears to be in the interests of the applicant or a child or dependant who ordinarily resides or has resided in the shared household;
 - (d) entering a specified part of the shared household;
 - (e) entering the residence of the applicant;
 - (f) entering the place of employment of the applicant;
 - (g) entering the place of education of the applicant;
 - (h) preventing the applicant, any child or dependant who ordinarily resides or has resided in the shared household from entering or remaining in the shared household or a specified part of the shared household;

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- (i)* taking possession of, using, damaging, converting or otherwise dealing with property that the applicant may have an interest in or is reasonably used by the applicant;
 - (j)* approaching the applicant within a specified distance; or
 - (k)* committing any other act as specified in the order.
- (2)** In addition to the prohibitions referred to in subsection (1), the Court may direct that—
- (a)* any or all of the prohibitions of the protection order under subsection (1) be applied for the benefit of a child or dependant;
 - (b)* the respondent, in circumstances where the respondent has a legal obligation to provide a financial resource or asset to the applicant, child or dependent —
 - (i)* return to the applicant specified property that is in his or her possession or under his or her control;
 - (ii)* pay emergency monetary relief to the applicant;
 - (iii)* if there is no existing order relating to maintenance, pay interim monetary relief to the applicant for the benefit of a child or dependant until an obligation for support is determined under any other law;
 - (iv)* immediately vacate any shared household for a specified period, whether or not the shared household is owned or leased by the respondent and the applicant, or

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- solely owned or leased by the respondent or the applicant; or
- (v) make or continue to make payments in respect of rent or mortgage payment for premises occupied by the applicant having regard to the financial needs and resources of the applicant and the respondent; or
- (c) the applicant, the respondent, child, dependant or other person affected by the act of domestic violence, receive professional counselling or therapy from a person or agency or from a programme which is approved in writing by the Director.
- (3)** Subsection (2)(b)(iii) does not apply in relation to a child who is over the age of sixteen years and employed, excluding work referred to in section 90(3) of the Labour Code (Cap.15.03).
- (4)** The Court may impose any additional conditions which it considers reasonably necessary to provide for and protect the safety of the applicant, the respondent, a child or dependant, including an order that a police officer shall accompany the applicant to a specified place to supervise the collection of personal property.
- (5)** The Court may direct that any or all of the prohibitions or conditions contained in a protection order apply for the benefit of a child or dependant.
- (6)** The Court may—
- (a) refuse the respondent contact with any child or dependant if it is shown that the contact is not in the best interests of the child or dependant; or

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- (b) order structured contact with a child or dependant.
- (7) The Court shall not refuse to issue a protection order under this Act on the basis that—
 - (a) only a single act has been committed or a single threat has been made by the respondent; or
 - (b) the acts or threats when viewed in isolation, appear to be minor or trivial.
- (8) If under subsection (2)(c) the Court makes an order which includes counselling or therapy, the order shall specify—
 - (a) that the Court receive written notification from the counsellor or therapist of sessions missed by the applicant, the respondent or both, without reasonable excuse; and
 - (b) the date by which the counsellor or therapist shall submit a report to the Court in respect of the counselling or therapy, which includes a prognosis for recovery.
- (9) If the Court makes an order which includes a direction that the respondent—
 - (a) vacate a shared household; or
 - (b) return to the applicant specified property that is in his or her possession or control,the Court may, in the same order, if it considers necessary, direct a police officer to remove the respondent either immediately or within a specified time from the shared household, or to accompany the applicant, either immediately or within a specified time to specified premises, in order to supervise the removal of property belonging to the applicant and to ensure the protection of the applicant.

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- (10) A protection order may be for such period as the Court considers necessary but shall not exceed three years.
- (11) If an order contains any prohibitions or directions, the Court shall specify different periods, none of which shall exceed 3 years, as the period for which each prohibition or direction shall remain in force.
- (12) If the respondent is a child, the Court shall, in making an order under this section, have due regard to the Juveniles Act, the Children (Care and Adoption) Act and any other law which applies to the care and protection of children.

10 Matters to be considered by Court

In determining whether or not to impose one or more of the prohibitions or issue a direction specified in section 9, the Court shall have regard to the following—

- (a) the nature, history, or pattern of the domestic violence that has occurred and whether a previous protection order has been issued;
- (b) the need to protect the applicant and any other person for whose benefit the order has been granted, from further domestic violence;
- (c) the welfare of any child or dependent;
- (d) the accommodation needs of the applicant and any other person;
- (e) the hardship that may be caused to the applicant or the respondent as a result of making the protection order;
- (f) the income, assets and financial obligations of the respondent, the

applicant and any other person affected by the protection order;

- (g) the need to preserve and protect the institution of marriage and other relationships while affording protection and assistance to the family as a unit; and
- (h) any other matter, that in the circumstances of the case, which the Court considers relevant.

11 Undertaking from respondent

- (1) In any proceedings under this Act, the Court may, at any time before the taking of evidence, accept on oath an undertaking from the respondent, that the respondent will not engage in any act of domestic violence specified in the application for a protection order or any other conduct that constitutes domestic violence.
- (2) If an undertaking is given under subsection (1), the Court shall make a protection order in respect of the undertaking.
- (3) An undertaking may deal with any matter that may be dealt with under an interim protection order or a final protection order, as the Court may determine.
- (4) An undertaking shall remain in force for the period stated in the undertaking, but shall not exceed three years.
- (5) Sections 13, 16 to 20 and Part 3 apply in relation to an undertaking as they do in relation to a protection order.

12 Seizure of offensive weapons

- (1) The Court may make an order directing a police officer to seize any offensive weapon in the possession of—

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- (a) the respondent if the affidavit made under section 7(6) and (7) contains information to the effect that the respondent has threatened or expressed the intention to kill or injure a person in a domestic relationship, including himself whether or not by means of the offensive weapon; or
 - (b) the respondent or applicant if the Court is satisfied from any oral or affidavit evidence provided that the possession of the offensive weapon is not in the best interests of the applicant or the respondent or any other person as a result of the applicant's or respondent's—
 - (i) state of mind or mental condition;
 - (ii) inclination to or history of violence, whether or not an offensive weapon was used in the past violence; or
 - (iii) use of or dependence on intoxicating liquor or misuse of drugs.
- (2) The Court shall direct the Clerk to refer a copy of the affidavit made under section 7(6) and (7) to the Commissioner of Police for consideration in relation to the Firearms Act (Cap. 10.02), if the Court has ordered the seizure of any firearm under this Act.

13 Service of notice of proceedings

- (1) On an application for a protection order under section 7(1) and the granting of an interim protection order by the Court, the Clerk shall cause to be served on the respondent—
- (a) a copy of the application and the interim protection order; and

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- (b) notice of the date on which, and the time at which the respondent is to appear before the Court to show cause as to why the interim protection order shall not be confirmed.
- (2) A notice of the proceedings under subsection (1) shall be issued in the form set out as Form 3 in Schedule 2.
- (3) If an application is filed in respect of a child or dependant, the Clerk shall cause to be served as soon as practicable on the parent or guardian of the child or dependant or other person with whom the child or dependant ordinarily resides or resides with on a regular basis—
- (a) a copy of the application; and
- (b) notice of the date on which, and the time and place at which, the application is to be heard.
- (4) A notice of proceedings which is issued and served under this section is taken to be a summons that is duly issued and served pursuant to the Rules of Court made under section 36 and shall compel the respondent to appear in Court to answer to the application.
- (5) A notice of proceedings may be served on the respondent or his or her agent and the Court shall receive proof of service by affidavit in the form set out as Form 4 in Schedule 2.
- (6) If the hearing of an application is adjourned because the application and notice of the proceedings have not been served on the respondent, the time and place fixed by the Court for the adjourned hearing, is the date, time and place stated in the new notice of proceedings.

14 Service other than personal service

- (1) If the Court has not served notice of proceedings under section 13 or the interim protection order on the respondent personally, it may make an order for substituted service of the notice of the proceedings or interim protection order.
- (2) For the purpose of subsection (1) “**substituted service**” means service—
- (a) by registered post to the last known address of the respondent;
 - (b) by electronic means, proved by an affidavit of service by the person responsible for transmitting the notice to the person to be served;
 - (c) by leaving the document at the last known address of the respondent or his or her closest relative;
 - (d) at the workplace of the respondent;
 - (e) by advertisement in a newspaper of general circulation, which service is taken to have been effected at midnight on the date of the later advertisement, the cost to be borne by the applicant; or
 - (f) in any other manner as the Court may direct.
- (3) The affidavit under subsection (2)(b) must be accompanied by—
- (a) the notice served;
 - (b) any cover sheet or email to the notice;
 - (c) the transmission record; and
 - (d) proof of electronic service of the notice, and must state the—
 - (i) electronic means by which the document was served;

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- (ii) e-mail address or FAX number to which the notice was transmitted; and
 - (iii) date and time of the transmission.
- (4) Electronic confirmation of delivery may be treated as proof of service for a document that is served electronically and may include a written e-mail response, a read receipt, a successful facsimile transmission notification or an automated response that a document was posted in an online shared drive.

15 Filing of affidavit

- (1) The respondent shall, before the return date, file with the Clerk a supporting affidavit showing cause as to why the interim protection order must not be confirmed.
- (2) A copy of the affidavit of the respondent shall immediately be served on the applicant.
- (3) The applicant, on receipt of the affidavit may, before the return date, file an affidavit in reply, together with any supporting affidavit with the Clerk in which shall be stated the reasons why the interim protection order must be confirmed.
- (4) A copy of the affidavit in reply and any supporting affidavit of the applicant shall immediately be served on the respondent.

16 Power to issue final protection order

- (1) If notice of the proceedings has been served on the respondent under section 13 or 14 and the respondent fails to appear in person at the time fixed for the hearing, the Court may—

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- (a) proceed to hear and determine the matter in the absence of the respondent and issue a final protection order in the form set out as Form 5 in Schedule 2; or
 - (b) if the Court is satisfied, having regard to the materials before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.
- (2) If the applicant or the person on whose behalf the application is made does not appear either in person or represented by an attorney-at-law, on the return date as stated in section 8(4) and (5) and the respondent appears in Court, the Court may—
 - (a) dismiss the application;
 - (b) having received a reasonable excuse for the non-appearance of the applicant or other person, adjourn the hearing on terms as it considers just; or
 - (c) if it is satisfied, having regard to the submissions before it, that it is appropriate for evidence to be given by affidavit under this section, it may so direct, but the Court shall, on the application of any other party, order that the person making the affidavit attends for cross-examination.
- (3) If the respondent appears on the return date in order to show cause as to why the interim protection order should not be issued or confirmed and the applicant or the person on whose behalf the application is made also appears, the Court shall proceed—
 - (a) to hear the matter and consider any evidence previously received under section 7(7) and (8); and

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- (b)* to consider any further affidavit or oral evidence as it may direct, which shall form part of the record of the proceedings.
- (4)** On the return date, the Clerk shall submit to the Court—
 - (a)* the application for the protection order;
 - (b)* the interim protection order granted;
 - (c)* a supporting affidavit made by the respondent; and
 - (d)* an affidavit in reply made by the applicant.
- (5)** At the hearing of the matter, the Court may—
 - (a)* decide the matter on the papers in the absence of either or both of the parties; or
 - (b)* refer the matter for oral evidence.
- (6)** At the conclusion of the hearing under subsection (5)(*a*) or (*b*), the Court—
 - (a)* may confirm, amend, or set aside the interim protection order; and
 - (b)* shall issue a final protection order in the form set out as Form 5 in Schedule 2.
- (7)** The Clerk shall immediately notify the parties of the order of the Court and shall—
 - (a)* serve the original final protection order referred to in subsection (6)(*b*) on the respondent;
 - (b)* serve a certified copy of the final protection order referred to in subsection (6)(*b*) on the applicant.
- (8)** A final protection order is for a period as the Court considers necessary but shall not exceed 3 years.
- (9)** If a final protection order contains any prohibitions or directions, the Court may

specify different periods, none of which shall exceed three years, as the period for which each prohibition or direction remains in force.

17 Explanation of orders

If the Court proposes to make an interim protection order or a final protection order and the respondent is before the Court, the Court shall explain to the respondent—

- (a) the purpose, terms and effect of the order;
- (b) the consequences of failing to comply with the order; and
- (c) the means by which the order may be varied or revoked.

18 Respondent to have notice of final protection order

A respondent is not bound by a final protection order issued under section 16—

- (a) if the respondent was not present at the time of the making of the order; or
- (b) if the order has not been served on the respondent personally or under section 14.

19 Variation and revocation of orders

- (1) If an order is in force, a party to the proceedings in respect of whom the order was made may make an application to the Court in the form set out as Form 6 in Schedule 2, for an order to vary or revoke the order that is in force.
- (2) On an application made under subsection (1), the Court may by order, vary or revoke the order.

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- (3) A copy of an application made under this section shall be served on each person who was a party to the proceedings in respect of which the original order was made.
- (4) In determining whether to vary or revoke an order and issue an order in the form set out as Form 7 in Schedule 2, the Court shall have regard to the matters specified in section 10.

20 Service of protection order

If an interim protection order or a final protection order is made or varied by the Court—

- (a) the Clerk shall arrange for the order to be drawn up in the form set out as Form 6 in Schedule 2 and filed with the Court; and
- (b) the Court shall serve a copy of the order on—
 - (i) the respondent;
 - (ii) any other person to whom the order is to apply whether or not the person is a party to the proceedings; and
 - (iii) the police officer in charge of the police station located nearest to the area where the respondent or the applicant resides.

21 Breach of protection order

- (1) Subject to subsection (2), a person against whom an order has been made or to whom a direction has been issued by the Court who—
 - (a) has notice of the order or direction; and
 - (b) contravenes the order or fails to comply with the direction,

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commits a summary offence and is liable to a fine of \$5,000 or three years' imprisonment or to both.

- (2) If an order contains a direction of the Court under section 9 that the respondent seek counselling or therapy and it is brought to the attention of the Court that the respondent has refused or neglected to comply with the direction and the Court finds that the refusal or neglect was unreasonable, the respondent commits a summary offence and is liable to a fine of \$5,000.

**PART 3—POLICE POWERS OF ENTRY AND
ARREST**

22 Duties of police officers

- (1) A police officer shall respond to every complaint or report alleging domestic violence whether or not the person making the complaint or the report is the victim.
- (2) A police officer responding to a domestic violence complaint shall complete a domestic violence report which shall be kept by the Commissioner of Police as prescribed.
- (3) A domestic violence report shall be in the form set out as Form 8 in Schedule 2 and shall include but is not limited to—
- (a) the name of the parties;
 - (b) the names of any other person, including a person other than the parties who has made a complaint of domestic violence on behalf of one of the parties;
 - (c) the relationship and sex of the parties;
 - (d) information relating to the history of domestic violence between the parties;

- (e) the date and time the complaint was received;
- (f) the type of the abuse and the weapon used, if any.

23 Issue of warrant

If a Magistrate is satisfied, by information on oath, that—

- (a) there are reasonable grounds to suspect that a person on a premises has suffered or is in imminent danger of physical injury at the hands of another person in a situation amounting to domestic violence and needs assistance to deal with or prevent the injury; and
- (b) a police officer has been refused permission to enter the premises for the purpose of giving assistance to the first mentioned person in paragraph (a),

the Magistrate may issue a warrant in writing authorising a police officer to enter the premises specified in the warrant at any time within twenty-four hours after the issue of the warrant and subject to any conditions specified in the warrant, to take action as is necessary to prevent the commission or repetition of the offence or a breach of the peace or to protect life or property.

24 Police powers of arrest without warrant

- (1) A police officer may act in accordance with the Criminal Procedure Code if the police officer has reasonable cause to believe that a person is engaging in or attempting to engage in conduct which amounts to physical violence and failure to act immediately may result in serious physical injury or death.

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- (2) This section does not authorise the entry on premises by a police officer, for the purpose of any search or the arrest of a person, otherwise than in connection with the conduct referred to in subsection (1).
- (3) If a police officer exercises a power of entry under subsection (1), the police officer shall immediately submit a written report to the Commissioner of Police through the head of his division or through his supervisor and the report shall contain—
- (a) the reasons for entering the premises without a warrant;
 - (b) the offence being committed or about to be committed; and
 - (c) the manner in which the investigation was conducted and the measures taken to ensure the protection and safety of the person at risk.
- (4) The report referred to in subsection (3) shall be submitted to the Director of Public Prosecutions by the Commissioner of Police within seven days of its receipt by the Commissioner of Police.
- (5) If a complaint is made against a police officer by a resident of premises that entry on the premises by a police officer under subsection (1) was unnecessary or an unreasonable exercise of authority, the complaint shall be submitted to—
- (a) the Governor, if the police officer is the Commissioner of Police; or
 - (b) a disciplinary tribunal, constituted under section 35 of the Police Act, if the police officer is not the Commissioner of Police,

to be dealt with as an alleged breach of a disciplinary regulation under section 35 of the Police Act.

25 Duty of police officer to assist victims

If a police officer has entered on to premises under sections 5, 23 and 24(1), the police officer shall—

- (a) assist a person who has suffered injury;
- (b) ensure the welfare and safety of a child or dependant who may be on the premises; and
- (c) prevent any further breach of the law.

26 Warrant of arrest and procedure upon arrest of respondent where Court issues interim protection order

(1) In granting an interim protection order pursuant to section 8, the Court may—

- (a) issue to the Royal Montserrat Police Service a warrant for the arrest of the respondent, in the form set out as Form 9 in Schedule 2; or
- (b) suspend the execution of the warrant, subject to compliance with any prohibition, condition, obligation or order imposed under section 9.

(2) The warrant referred to in subsection (1) shall remain in force until the interim protection order is set aside.

(3) A police officer shall execute a warrant of arrest on a respondent, on receipt of an affidavit made by an applicant, in the form set out as Form 10 in Schedule 2, which states that—

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- (a) an interim protection order has been issued under section 8 or that a final protection order has been issued under section 16;
 - (b) the respondent has breached a prohibition, condition or obligation or order imposed under section 9; and
 - (c) a warrant for the arrest of the respondent has been issued under subsection (1),
- (4) The Court shall issue to the Royal Montserrat Police Service a second or further warrant of arrest upon the applicant filing an affidavit which states that the respondent has not been arrested.
- (5) Subject to this Act, the sections of the Criminal Procedure Code relating to—
 - (a) the form and manner of execution of a warrant of arrest;
 - (b) the arrest of a person;
 - (c) the detention, search, release from custody of a person; and
 - (d) the criminal prosecution of a person;shall apply with the necessary changes applicable in respect of a warrant of arrest issued under subsection (1).
- (6) A respondent arrested under subsection (3) shall—
 - (a) be released only if—
 - (i) a Court orders the release; and
 - (ii) the respondent, having been given a reasonable opportunity to do so, adduces evidence which satisfies the Court that the interests of justice

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permit his or her release from
detention in custody;

- (b) be brought before the Court as soon as reasonably possible, but not later than—
 - (i) forty-eight hours after arrest; or
 - (ii) at the end of the first Court date, after the expiry of the forty-eight hours, if the forty-eight hours expire outside the ordinary Court hours or on a day which is not an ordinary Court day; and
- (c) be criminally charged with—
 - (i) an offence referred to in section 40; and
 - (ii) any other offence resulting from a complaint lodged by the applicant against the respondent.

27 Powers of arrest where a final protection order is in force

If a final protection order is in force and a police officer believes on reasonable grounds that the respondent has committed or is committing a breach of the final protection order, the police officer may arrest and detain the respondent without a warrant.

28 Existing criminal law to apply

- (1) Subject to subsection (2), if a person is arrested under section 23 or 24, the person shall be charged in accordance with the relevant provisions of the criminal law for committing or attempting to commit any of the offences and shall be dealt with accordingly.

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(2) If, on hearing the evidence under section 16 for the granting of a final protection order, the Court is satisfied that—

- (a)* the incident was an isolated one;
- (b)* there are circumstances which make it desirable to preserve the family unit; and
- (c)* the conduct complained of is not sufficiently grave to warrant the imposition of the order or the penalty,

the Court may, with the consent of the applicant, withhold the granting of a final protection order or the imposition of any penalty as prescribed by law and require the respondent to enter into a bond of good behaviour for a period not exceeding six months.

(3) If a bond of good behaviour has been entered into under subsection (2), the Court may prescribe additional conditions as follows—

- (a)* that the parties receive professional counselling, including family counselling;
- (b)* that the parties report to a social worker or a probation officer at certain fixed intervals; or
- (c)* that the matter be reviewed by the Court within three months.

(4) A bond of good behaviour entered into under subsection (2) is forfeited if the Court is satisfied that—

- (a)* the respondent has continued to engage in conduct amounting to domestic violence against the applicant;
- (b)* based on a report from the Director, a social worker, a probation officer or a

- police officer, domestic violence is likely to be perpetrated against the applicant; or
- (c) the applicant has become fearful of the respondent to the extent that the applicant is no longer willing to continue the domestic relationship.

PART 4—MISCELLANEOUS

29 Conduct of proceedings

- (1) The following persons only may be present during the hearing of any proceedings under this Act—
- (a) an officer of the Court;
- (b) a party to the proceedings and his or her attorney-at-law;
- (c) a witness; or
- (d) any other person permitted by the Magistrate to be present.
- (2) A witness shall leave the Court room if asked to do so by the Magistrate.
- (3) This section does not limit any other power of the Court to hear proceedings in camera or to exclude any person from the Court.
- (4) If an application is made on behalf of a child or if a child is the respondent in an application, the parent or guardian of that child or the person with whom the child ordinarily resides with on a regular basis is entitled to be a party to the proceedings.
- (5) This section does not prevent a child on whose behalf or against whom an application for an order is made from being heard in the proceedings and if the child expresses his or

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her views, the Court shall take account of those views, having regard to—

- (a) the age and maturity of the child; and
- (b) the ability of the child to express his or her views.

30 Evidence

In any proceedings under this Act other than criminal proceedings, the Court may receive evidence as it thinks fit, whether it is otherwise admissible in a court of law.

31 Standard of proof

A question of fact arising in any proceedings under this Act, other than criminal proceedings shall be decided on a balance of probabilities.

32 Restriction on publication of reports

- (1) Subject to subsections (3) and (4), a person shall not publish any report of proceedings under this Act, other than criminal proceedings, except with the leave of the Court.
- (2) A person who contravenes subsection (1) commits a summary offence and is liable to a fine of \$10,000 or to twelve months' imprisonment.
- (3) This section does not limit—
 - (a) any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or
 - (b) the power of the Court to punish any contempt of Court.

- (4) This section does not apply to the publication of a report in a publication that is—
- (a) of a *bona fide* professional or technical nature; or
 - (b) intended for circulation among members of the legal profession or the medical profession, public officers, police officers, psychologists, marriage counsellors or social workers.

33 Orders by consent

In any proceedings under this Act, the Court may make any order with the consent of all the parties to the proceedings.

34 Appeals

- (1) A person aggrieved by—
- (a) an order of the Court; or
 - (b) the refusal of the Court to make an order,
- may, within twenty-eight days after the decision of the Court, appeal to the Court of Appeal.
- (2) Except where the Court which makes an order under this Act otherwise directs, the operation of the order shall not be suspended by virtue of an appeal made under this section and every order may be enforced in the same manner and in all respects as if an appeal under this section is not pending.

35 Protection of mortgage

- (1) The rights conferred on a person in respect of any property by an order made under this Act is subject to the rights of a person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if—

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- (a) the mortgage, security, charge or encumbrance was registered before the order was registered; or
 - (b) the rights of that other person entitled to that benefit arise under an instrument executed before the date of the making of the order.
- (2) Money payable under any mortgage, security, charge or encumbrance shall not be called up or become due by reason of the making of the order under this Act.

36 Rules of Court

The Chief Justice may make Rules of Court—

- (a) to regulate the practice and procedure of the Court with respect to proceedings under this Act; and
- (b) to provide for matters as are necessary for giving full effect to this Act and for its due administration.

37 Property rights

This Act shall not be construed as altering the rights of a spouse, or a cohabitant in respect of ownership of any real, personal, movable or immovable property.

38 Obligation to report ill-treatment of a child

- (1) Subject to the Children (Care and Adoption) Act, a—
 - (a) psychologist;
 - (b) counsellor;
 - (c) medical practitioner or dentist registered under the Medical Act (Cap. 14.02);

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- (d) nurse registered under the Nurses and Midwives Act (Cap. 14.05);
- (e) mental health practitioner or mental health officer;
- (f) social worker; or
- (g) teacher,

who examines, attends to or deals with a child in circumstances giving rise to reasonable suspicion that the child has been subject to any act of domestic violence as a result of which the child suffers from injury, whether single or multiple, shall immediately notify a police officer of the circumstances.

- (2) A person referred to in subsection (1) is not liable in respect of any notification given in good faith under this section.

39 Bail

- (1) If the Court is required to determine whether to grant bail in respect of an offence committed under this Act, the Court shall consider—
 - (a) the need to protect the applicant from domestic violence;
 - (b) the welfare of a child or dependant if the respondent or the applicant has custody of that child or dependant;
 - (c) the welfare of any child or dependant being a member of the household; and
 - (d) any hardship that may be caused to the respondent or other members of the family if bail is not granted.
- (2) The Court in granting bail, may order that the recognisance be subject to any one or more of

the following conditions, as the Court considers appropriate—

- (a) that the respondent not harass or molest or cause another person to harass or molest the applicant;
 - (b) that the respondent not be present on the premises in which the applicant works or resides; and
 - (c) that the respondent not be in a locality in which is situated the premises in which the applicant works or resides.
- (3) If a police officer believes on reasonable grounds that a person who has been admitted to bail subject to one or more conditions has failed to comply with a condition of the recognisance, the police officer may arrest the person without a warrant.

40 Offences

A person who contravenes this Act or any obligation or prohibition imposed under this Act commits an offence and is liable, if no penalty is specified, to a penalty of \$5,000 or three years' imprisonment or to both.

41 Breach of duty by police officer and complaints

- (1) The failure of a police officer to comply with a duty or function under this Act is a breach of a disciplinary regulation and a disciplinary offence under the Police Act and Police Regulations (Cap. 10.01).
- (2) A complaint against a police officer of a breach of duty under this section shall be heard and determined in accordance with section 35 of the Police Act.

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42 Regulations

The Governor acting on the advice of Cabinet may make regulations to give effect to this Act.

43 Amendment of Schedule

The Governor acting on the advice of Cabinet may amend a Schedule to this Act by Order published in the *Gazette*.

44 Repeal and savings

- (1) The Family (Protection against Domestic Violence) Act is repealed.
- (2) Any application made, proceedings instituted or order made or varied under the Family (Protection against Domestic Violence) Act is taken to have been made or instituted under this Act.
- (3) Until replaced by subordinate legislation made under this Act, any subordinate legislation made under the Family (Protection against Domestic Violence) Act shall continue in force with the necessary modifications to bring them into conformity with this Act.

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SCHEDULE 1

DOMESTIC VIOLENCE ACT, 2020

(Section 4)

Information to victim and applicant

1. You have the right to request the assistance of a police officer in order to protect yourself and your child/children and the police officer is obligated to provide you with information on how to obtain a protection order.
2. You may request police assistance in locating and taking you and your child/children to a place of safety, including a shelter, the home of a family member or friend or any other place of safety.
3. You may request that your address not be disclosed to the person against whom you have made a report of domestic violence.
4. If you or your child/children is/are in need of medical treatment, you have the right to request the assistance of a police officer in obtaining medical treatment.
5. You or a person on you or your child's/children's behalf may obtain an interim protection order from the Court at any time of the day or night and the interim protection order will be served on the person against whom you have made a report of domestic violence, free of charge. The interim protection order is of a temporary nature, and if you wish it to be confirmed, you will be required to appear in Court at a later date.
6. The Court may order the person against whom you have made a report of domestic violence to pay emergency monetary relief and any or all contact with you or your child/children may be prohibited.
7. You may also request the Court to convict the person against whom you have made a report of domestic violence or prohibit him or her from preventing you to enter the shared household.
8. If you and your child/children require/requires any counselling or support, you should contact the Director of the Social Services Department who can offer services to you and your child/children.
9. You have the right to lodge a criminal complaint against the person against whom you have made a report of domestic

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violence if a criminal offence has been committed against yourself and your child/children.

10. It is a criminal offence to give false information or knowingly make a false report to the police about the commission of an offence or to cause the apprehension of another person.

If you do not understand any of the above information, you may request more detail from myself or another member of the Royal Montserrat Police Service.

Dated this day of 20 .

.....
Name of Police Officer

.....
Rank

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SCHEDULE 2

FORM 1
DOMESTIC VIOLENCE ACT, 2020
(Section 7)

APPLICATION FOR PROTECTION ORDER

1. (a) I, (“the Applicant”)
(full name),*(occupation)*
of*(residential address)*,*(telephone number)*,
..... of the Respondent (*nature of domestic relationship with the respondent*); or
- (b) I, (*full name*),
.....*(occupation)*
of (*residential address*),*(telephone number)*,
and of (*business address*),*(telephone number)*;
On behalf of:
..... (“the Applicant”) (*full name*),
.....*(occupation)* of
..... (*residential address*),
.....*(telephone number)*,
and of
(business address),*(telephone number)*,
..... of the Respondent
(nature of domestic relationship with the respondent);

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On whose behalf the application is brought due to.....
..... (*state relationship
or concern*) and whose consent has been obtained (*except
if the applicant is a child or dependant*);

Hereby apply for a protection order against:

.....("the Respondent") (*full name*)
..... (*occupation*)
of (*residential address*),
.....(*telephone number*), and of
..... (*business address*),
.....(*telephone number*).

2. The following children (*if any*) have been born from the domestic relationship:

.....
.....

3. (a) The Respondent at or near.....
(*state location*), and on or about the day
of.....20... committed the following act(s):

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

(b) I have attached the affidavit, together with any supporting affidavit(s).

4. I request that the Respondent be ordered:

- (a) not to commit any act of domestic violence;
- (b) not to enlist the help of another person to commit any act of domestic violence;
- (c) not to enter the shared household;

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- (d) not to enter the Applicant's residence;
- (e) not to enter the Applicant's place of employment;
- (f) not to prevent the Applicant or any child or dependant who normally resides or resides in the shared household from entering or remaining in the shared household or any part of it;
- (g) not to enter the Applicant's place of employment; or
- (h) not to commit any other act;

as requested *and/or specified in the affidavit(s).

5. I further request the Court to order that:

- (a) a member of the Royal Montserrat Police Service is to accompany the Applicant to the residence specified in the application to supervise the collection of the Applicant's personal property;
- (b) a member of the Royal Montserrat Police Service is to seize the offensive weapon as specified in the affidavit;
- (c) the Respondent is to pay the rent or mortgage payments specified in the affidavit;
- (d) the Respondent is to pay emergency monetary relief as specified in the affidavit;
- (e) the Respondent is to pay the educational expenses as specified in the affidavit;
- (f) the Respondent is refused any contact with the child or children as specified in the affidavit;
- (g) the Respondent is granted structured contact with the child or children as specified in the affidavit; or
- (h) the address of the Applicant's residence shall not be disclosed to the Respondent.

6. I am likely to report a breach of the Protection Order at the Station (*location of station*) of the Royal Montserrat Police Service.

7. Additional conditions requested as per affidavit:
.....
.....

Deponent

Date

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8. I certify that before administering the *oath/ affirmation I asked the Deponent the following questions and noted his or her answers as indicated below—
- (a) Do you know and understand the contents of the above declaration? YES/NO
 - (b) Do you have any objection to taking the prescribed oath? YES/NO

I certify that the Deponent has acknowledged that *he/she knows and understands the contents of this declaration which was *sworn to/affirmed before me, and that the Deponent's *signature/ thumbprint/ mark was placed on this declaration in my presence.

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

.....

Magistrate

**Delete whichever is not applicable*

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FORM 2
DOMESTIC VIOLENCE ACT, 2020
(Section 8(1))

INTERIM PROTECTION ORDER

IN THE MAGISTRATE'S COURT

MONTserrat

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

1. Respondent's Name.....
Residential Address.....
.....
Telephone No.....
Business Address.....
.....
Telephone No.....
Occupation.....
2. Whereas the Applicant (or.....on behalf of the Applicant), has applied for a protection order against the Respondent, as per the affidavit(s) and record of oral evidence (if any) attached, and after consideration of the application;
3. The Court orders that the application for a protection order be:
Dismissed; or
Granted; and the Respondent is ordered:
 - (a) not to commit the following act(s) of domestic violence:
.....

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-
.....
.....;
- (b) not to enlist the assistance of any other person to commit the acts of domestic violence specified in paragraph (a);
- (c) not to enter the shared household at
.....;
- (d) not to enter the following parts of the shared household.....
.....
.....at.....
.....;
- (e) not to enter the Applicant's residence at;
- (f) not to enter the Applicant's place of employment at.....;
- (g) not to prevent the Applicant or any child or dependant who normally resides or resides in the shared household at.....
..... from entering or remaining in the shared household, or any part of it;
- (h) not to commit any other act, to wit
.....
.....;
- (i) to make rent or mortgage payments in the sum of \$.....per month;
- (j) to pay the sum of \$..... per month to the applicant as educational expenses.

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4. It is further ordered that:

- (a) a member of the police service accompanies the Applicant to the following residence in order to supervise the collection of personal property, i.e.,.....
.....;
- (b) a member of the police service atseizes the following offensive weapon in the possession of the respondent, i.e.,
.....;
- (c) the Applicant's address is not to be disclosed to the Respondent;
- (d) The Respondent is refused any contact with the following children i.e.,
.....
.....;
- (e) the Respondent is allowed contact with the following children, i.e.
.....
.....
on the following basis:
.....
.....
.....
- (f) a warrant is authorised for the arrest of the Respondent, the execution of which is suspended subject to the respondent's compliance with the provisions of the protection order as stated above; and
- (g) a copy of this order and the warrant of arrest be forwarded to the _____ Station (*location of station*) of the Royal Montserrat Police Service once this interim protection order has been served on the Respondent.

5. The Respondent is furthermore informed of his or her right to appear in the Court at.....on the..... day of.....20... at.....in order to show cause as to why the

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interim protection order should not be confirmed and made final.

Dated thisday of,
20.....

.....

Magistrate

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FORM 3
DOMESTIC VIOLENCE ACT, 2020
(Section 13(2))

NOTICE OF PROCEEDINGS

IN THE MAGISTRATE'S COURT

MONTserrat

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

TO THE RESPONDENT

An application under section 7 of the Domestic Violence Act, 2020,
for a protection order has been made by
..... *(name of Applicant)*

A copy of the application is attached.

The application has been set down for hearing on theday
of....., 20... at.....a.m/p.m at.....,
Montserrat.

**IF YOU DO NOT APPEAR IN PERSON AT THE HEARING OF
THE APPLICATION, THE COURT MAY:**

- (a) deal with the application in your absence;
or
- (b) issue a warrant for your arrest to be brought before the
Court.

Dated this.....day of, 20...

.....

Clerk

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 4
DOMESTIC VIOLENCE ACT, 2020
(Section 13(4))

**AFFIDAVIT FOR USE IN PROVING SERVICE OF
PROCESS**

IN THE MAGISTRATE'S COURT

MONTSERRAT

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

Return of service of process in respect of domestic violence
offence(s) for the Magistrate's Court

Name of Applicant.....

Name of Respondent.....

Document served.....

Date of service.....

Place of service.....

Mode of service.....

I swear that the above Return of Service is true and in accordance
with the facts of such service.

Sworn to at the ,)

Montserrat, this)

day of, 20...)

.....

Deponent

Before me:

.....

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 5
DOMESTIC VIOLENCE ACT, 2020
(Section 16(1), 16(6))

FINAL PROTECTION ORDER

IN THE MAGISTRATE'S COURT

MONTSERRAT

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

Whereas the Applicant has applied for a protection order; and

After considering the facts of the matter;

The Court orders that the interim protection order be:

1. **CONFIRMED.**

2. **AMENDED AS FOLLOWS:**

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

3. **SET ASIDE.**

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

.....
Magistrate

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 6
DOMESTIC VIOLENCE ACT, 2020
(Section 19(1))

**APPLICATION FOR VARIATION OR REVOCATION OF
INTERIM/FINAL PROTECTION ORDER**

IN THE MAGISTRATE’S COURT

MONTSERRAT

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

I, (*name of Applicant*) hereby apply for a variation/revocation of the order made against (*name of Respondent*) on the day of....., 20... by the Court (a copy of which is attached to the said application) in respect of certain conduct or threatened conduct towards (*name of person who is protected by the order*).

I ask for a variation of the order in the following terms:
(Specify details of variation)

Dated this.....day of....., 20...

.....

Applicant

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 7
DOMESTIC VIOLENCE ACT, 2020
(Section 19(4))

**ORDER VARYING INTERIM/ FINAL PROTECTION
ORDER**

IN THE MAGISTRATE’S COURT

MONTSERRAT

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

The Court, having heard an application made under section 19 of the Act by (*name of the Applicant*) in respect of conduct or threatened conduct of (*name of Respondent*) and the Court having on theday of, 20..... made an order, a copy of which is attached here, prohibiting the respondent from engaging in the conduct specified in the order.

NOW the Court on the application of..... (*name of the Applicant*) does this day order that the interim/final protection order be:

1. **REVOKED** as at (*specify effective date of revocation*)
2. **VARIED AS FOLLOWS:**
(*specify details of variation*).

Dated this.....day of, 20.....

.....

Magistrate

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 8
DOMESTIC VIOLENCE ACT, 2020
(Section 22(3))

DOMESTIC VIOLENCE POLICE REPORT

PART 1:

1. (a) Station..... (b) Division.....
(c) Reference No.....
2. Mode of report.....
3. (a) Date (b)Time (c)Diary Reference
4. Recorded by:
Name..... Number..... Rank.....

PART 2:

5. Complaint made by.....
6. Address.....
.....

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Domestic Violence Act, 2020
No. 13 of 2020

- 7. Relationship of complainant to victim or alleged offender
.....
- 8. Relationship of victim to alleged offender
.....
- 9. Name of victim
- 10. (a) Sex (b) Age (c) Occupation
- 11. Address.....
.....
- 12. Telephone No.....
- 13. Employment Address
-
- 14. Nature of domestic relationship to alleged offender.....
.....
- 15. Name of alleged offender.....
- 16. (a) Sex (b) Age (c) Occupation
- 17. Address.....
.....
- 18. Telephone No.....
- 19. Employment Address
-
- 20. Nature of domestic relationship to alleged offender.....
- 21. Name of Witness.....
- 22. Address.....
.....
- 23. Telephone No.....
- 24. Relationship to victim/alleged offender.....
- 25. Fact, as reported:
.....
.....
.....

Montserrat
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No. 13 of 2020

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

25. Extent of Inquiry.....

26. Medical Report Form attached: Yes No

27. Instrument used to inflict injury (*if any*)

.....

28. Whereabouts of children at time of incident (*if any*)

.....

PART 3:

29. Were previous complaints were made? Yes No

30. If yes:

(a) Date (b) Time (c) Diary Reference

31. Investigator:

(a) Name (b) Number (c) Rank.....

32. Action taken

.....

33. Any other previous complaints made:

(a) Date (b) Time (c) Diary Reference

34. Investigator:

(a) Name (b) Number (c) Rank

35. Action taken

.....

36. Is a protection order in existence? Yes No

37. Date of Issue.....

38. Comments:

Montserrat
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No. 13 of 2020

.....
.....

39. Duration of protection order.....

PART 4:

ACTION TAKEN WITH RESPECT TO PRESENT REPORT

Date Time.....

Action taken by:

Arrest made: Yes No

If yes:

Date of arrest..... Mode of arrest.....

Present status of report.....

CHARGES PREFERRED:

- (1).....
- (2).....
- (3).....
- (4).....

STATE REASONS IF NO CHARGES PREFERRED:

.....
.....

Investigator

Supervising Officer

.....

.....

Date

Date

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 9
DOMESTIC VIOLENCE ACT, 2020
(Section 26(1))

WARRANT OF ARREST

IN THE MAGISTRATE'S COURT

MONTSERRAT

APPLICATION NO.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT**

To all Police Officers:

Whereas *an Interim Protection Order/a Protection Order was granted against the Respondent by the Court on the day of, 20...; and

Whereas the Applicant has stated that the Respondent has breached (a) condition(s) of the *Interim Protection Order/Protection Order;

Therefore you are hereby authorised and ordered to immediately arrest the Respondent in terms of the Domestic Violence Act, 2020.

Given under my hand this day, 20...

.....

Magistrate

**Delete whichever is not applicable*

Montserrat
Domestic Violence Act, 2020
No. 13 of 2020

FORM 10
DOMESTIC VIOLENCE ACT, 2020
(Section 26(3))

**BREACH OF INTERIM PROTECTION
ORDER/PROTECTION ORDER**

IN THE MAGISTRATE’S COURT

MONTSERRAT

APPLICATION NO

BETWEEN

APPLICANT

AND

RESPONDENT

1. I, (“the Applicant”)
(full name), *(occupation)*
of *(residential address)*,
.....*(telephone number)*:

hereby declare under oath/solemnly affirm that:

An Interim Protection Order/Final Protection Order was granted
on the day of, 20... in the Court at
..... against..... (“the Respondent”)
(full name),
(occupation) of *(residential
address)*, *(telephone number)*,
and of *(business address)*,
.....*(telephone number)*.

2. *A copy of the Interim Protection Order/Final Protection Order
(indicating what orders were made) is attached.

(or)

*A copy of the Interim Protection Order/ Final Protection Order
cannot be attached for the following reasons:

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.....
.....

3. In the said Interim Protection Order/ Final Protection Order the Respondent was ordered:

- (a)
- (b)

4. The Respondent has breached the Interim Protection Order/Final Protection Order (which has not been set aside), in that *he/she on the day of, 20.....:

.....

Signature of Deponent Date

5. I certify that before administering the *oath/ affirmation I asked the Deponent the following questions and noted *his/her answers in *his/her presence as indicated below:

- (a) Do you know and understand the contents of the above declaration? YES/NO
- (b) Do you have any objection to taking the prescribed oath? YES/NO
- (c) Do you consider the prescribed oath to be binding on your conscience? YES/NO

I certify that the Deponent has acknowledged that *he/she knows and understands the contents of this declaration which was *sworn to/affirmed before me, and that the Deponent's *signature/thumb print/mark was placed on this declaration in my presence.

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

Magistrate

**Delete whichever is not applicable*

Montserrat
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No. 13 of 2020

(Sgd.) Charliena White

SPEAKER

Passed by the Legislative Assembly this 22nd day of.
December, 2020.

(Sgd.) Shivonne White

CLERK OF THE LEGISLATIVE ASSEMBLY

(Ag.)