

REPUBLIQUE

DE

VANUATU

JOURNAL OFFICIEL



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ARRETES

noted. [Signature] 18/12/01

NOTIFICATION OF PUBLICATION

ORDERS

COURTS ACT(CAP.122)-

♦ **COURT FEES RULES
NO. 65 OF 2001**

**COURTS (DOMESTIC VIOLENCE
PROTECTION)**

♦ **RULES NO.66 OF 2001**

**COURTS (DOMESTIC VIOLENCE
PROTECTION)**

♦ **RULES NO. 67 OF 2001**

REPUBLIC OF VANUATU

CHAPTER 122

COURT FEES RULES ORDER No. 65 OF 2001

To prescribe the fee payable by an applicant for Domestic Protection Orders under the Courts Act [CAP.122] and the Courts (Domestic Violence Protection) Rules No. 67 of 2001.

In exercise of the powers conferred on me by Section 30 of the Courts Act [CAP.122], I, Edward Nipake Natapei, Prime Minister and Minister responsible for Justice, make the following Orders:-

1. Definitions

In these Orders, unless the contrary intention appears:

"Act" means the Courts Act [CAP.122]

"Order 36" means new Order 36 of the Magistrates Courts (Civil Procedure) Rules 1976.

"Order 74" means new Order 74 of the Supreme Court (Civil Procedure) Rules 1964.

2. Prescribed fees under Order 36 rule 3 of the Magistrates Court Rules

For the purposes of Order 36 rule 3 of the Magistrates Court (Civil Procedure) Rules 1976, the prescribed fee is Vatu 3,000 or such lesser fee as the Court prescribes in accordance with the Rules.

3. Commencement

This Order shall come into force on the date of publication in the Gazette.

MADE at Port-Vila, this 30th day of November, 2001



EDWARD N. NATAPEI
Prime Minister and
Minister responsible for Justice



REPUBLIC OF VANUATU

COURTS ACT [CAP. 122]

Courts (Domestic Violence Protection) Rules No. 66 of 2001

To amend the Supreme Court [Civil Procedure] Rules 1964 to make provision for domestic Violence Protection Orders.

In exercise of the powers conferred on the Judicial Committee by section 30 of the Courts Act [CAP. 122], the Committee makes the following orders:

1 Addition After Order 73

After Order 73 insert the following new order:

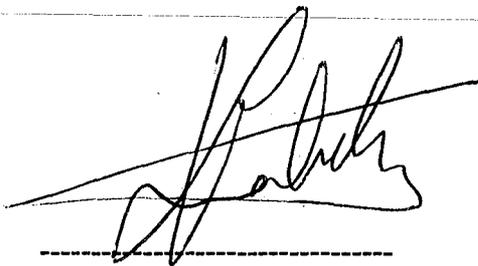
"ORDER 74

DOMESTIC VIOLENCE PROTECTION ORDERS

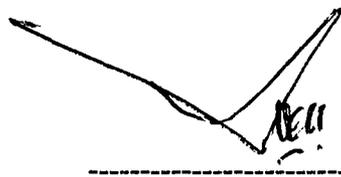
1. This Order applies to applications referred to the Supreme Court under Order 36 Rule 12 Magistrates Courts [Civil Procedure] Rules 1976.
2. The Supreme Court may make such Orders as it thinks fit, including a non-violence order, an exclusive occupation order and a non-molestation order.
3. No application may be delayed or defeated because it does not comply with any Rule of the Supreme Court [Civil Procedure] Rules."

2. Commencement

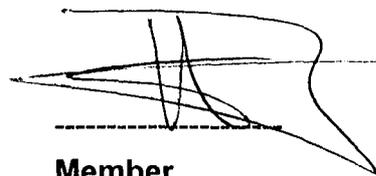
This Order shall come into force on the date of publication in the Gazette.



Chairman
Judicial Rules Committee



Member



Member

REPUBLIC OF VANUATU

COURTS ACT [CAP. 122]

Courts (Domestic Violence Protection) Rules No. 67 of 2001

To amend the Magistrates Courts [Civil Procedure] Rules 1976 to make provision for domestic violence protection orders.

In exercise of the powers conferred on the Judicial Committee by section 30 of the Courts Act [CAP. 122], the Committee, makes the following orders -

1. Addition After Order 35

After Order 35 insert the following Order -

"ORDER 36

DOMESTIC VIOLENCE PROTECTION ORDERS

1. The rules hereunder are expressly for the issue of domestic violence protection orders and apply to no other applications.
2. Domestic violence means actual or threatened physical violence or abuse by a man, woman or a child of a family to another man, woman or child of the family. A person is a member of a family if accepted as such whether or not related by blood or marriage.
3. Court fees for any application pursuant to these rules are restricted to a total sum of VT3,000 per application which sum of moneys may be wholly or partly waived by the Court in its discretion.
4.
 - (1) The proceedings shall be started by an Application [Form 23] in the Magistrates Court.
 - (2) The application shall be supported by at least one sworn

statement verifying the alleged facts [Form 24], an undertaking as to damages and an application specifying the orders requested, [Form 25].

5. Upon hearing any such application the Magistrate may make such domestic violence protection orders as he/she thinks fit, [Form 26].
6. The applicant may appear in his or her own right or be represented by a lawyer or any other person approved at the hearing by the Magistrate.
7. Upon making any order the Magistrate shall provide a return date not later than 14 days.
8. The order shall be served on the respondent and a copy on the Police as soon as possible. The Magistrate shall direct who is responsible for service
9. Upon the return date or such earlier date as may be requested by either party, the Magistrate shall:
 - (i) Give directions for the progress of the case;
 - (ii) Consider whether the order should be continued, amended or removed and make such an order accordingly.
10. **Orders**

The Court may make for the benefit of the applicant and any other members of the family included in the application, a domestic violence protection order. This may include any of the following orders:

 - (a) Non Violence order
 - (b) Exclusive Occupation order
 - (c) Non Molestation order

A Non Violence Order is a restraining order in cases of violence or threatened violence cases and prohibits the use of force by the

Respondent against the Applicant, or any child of the family on whose behalf the application is made, for any reason.

Other than violence it does not prohibit any other contact as between the parties.

The order remains in force until the return date.

An Exclusive Occupation Order requires the Respondent to vacate the shared residence immediately or at such specified time and not to return to the home or place of residence of the Applicant except at such times and under such conditions as may be specified in an order.

The Order remains in force until the return date.

In the event of no readily available address or description the party applying may add a sketch map to his or her affidavit.

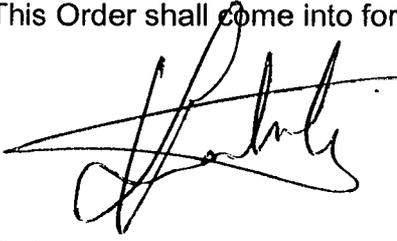
A Non Molestation Order prohibits any contact by phone, fax, e-mail, talking, meeting or otherwise, or in any way disturbing the applicant or any child of the family on whose behalf the application is made in his or her daily life.

The order remains in force until the return date.

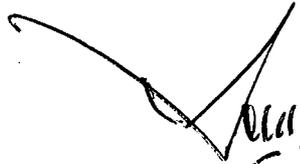
11. Unless the Magistrate directs otherwise, an order shall contain a power of arrest.
12. If at any time the Magistrate is of the view that the degree of violence or threatened violence involved is serious then he may refer the matter to the Supreme Court for hearing as a matter of priority.
13. No application may be delayed or defeated because it does not comply with any other order or rule of these Rules."

2. Commencement

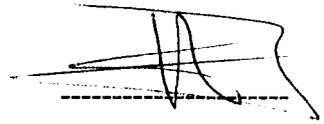
This Order shall come into force on the date of publication in the Gazette.



Chairman
Judicial Rules Committee



Member



Member

BETWEEN:


.....
.....
.....
.....
Write your full name and address

Applicant

AND:

Respondent


.....
.....
.....
.....
Write the full name and address of Respondent

APPLICATION FOR DOMESTIC VIOLENCE PROTECTION ORDER

CLAIM

- 1) The Applicant(s) is/are members of the same family as the Respondent.
(Delete as necessary)
- 2) The Respondent has committed or is threatening to commit violence upon the applicant or a child/children of the family as stated in the attached Affidavit:
(Give child/children's names)

.....
.....

The Applicant asks for:

- a) A Domestic Violence Protection Order;
- b) Costs;
- c) Any such further Orders as the Court sees fit.

DATED:

Signed:(Sign here)

FOR

- a) Myself
- b) A Child/Children of the Family

Give name(s):

.....

MY GROUNDS are set out in the sworn statement attached.

DATED

Signed:

I,.....of.....

*** AGREE** to obey any order this Court may make against me for costs or damages if the Court finds that I should not have made this application.

.....
Signed

EXPARTE

BETWEEN:

.....
.....
Write your name here

Applicant

Of

.....
.....
Write your address here

AND:

.....
.....
Write the name of the other party here

Of

.....
.....
Write the address of the other party

AFFIDAVIT OF

.....

I(Write your full name)

of:
(Write your full address)

swear: -

1. I am the Applicant.
2. I am applying on behalf of myself and/or the following child/children of the Family: (Cross out the words which do not apply)

(Write the names of the child or children on the lines below)

.....
.....

3. The Respondent and I are members of the same family. The respondent is:
(State the relationship between yourself and the respondent on the lines below)

.....

4. The home I/ and the children (Cross out if you are only applying for yourself) live is at:

FOR

a) Myself

b) A Child/Children of the Family

Give name(s):

.....

MY GROUNDS are set out in the sworn statement attached.

DATED

Signed:

I,.....of.....

* **AGREE** to obey any order this Court may make against me for costs or damages if the Court finds that I should not have made this application.

.....
Signed

EXPARTE

BETWEEN:

.....
.....
Write your name here

Applicant

Of

.....
.....
Write your address here

AND:

.....
.....
Write the name of the other party here

Of

.....
.....
Write the address of the other party

AFFIDAVIT OF

.....

I(Write your full name)

of:
(Write your full address)

swear: -

1. I am the Applicant.
2. I am applying on behalf of myself and/or the following child/children of the Family: (Cross out the words which do not apply)

(Write the names of the child or children on the lines below)

.....
.....

3. The Respondent and I are members of the same family. The respondent is:
(State the relationship between yourself and the respondent on the lines below)

.....

4. The home I/ and the children (Cross out if you are only applying for yourself) live is at:

BETWEEN:


.....
Write your full name
.....
Write your address

Applicant

AND:


.....
Write full name of respondent
.....
Write address of respondent

Respondent

**EX PARTE APPLICATION FOR
DOMESTIC VIOLENCE PROTECTION ORDER**

- a) Non violence
- c) Exclusive occupation
- b) Non Molestation

I,

.....
( Write the full name of the applicant here)

of.....
( Write the applicant's address)

APPLY Ex Parte for the following orders (delete as appropriate)

- a) Non Violence
- b) Exclusive Occupation of the home situated
at.....
(Give full address)
- c) Non Molestation Order.

WARNING TO THE RESPONDENT

If you do not obey these orders then you can be arrested. You will then be brought before the court and may be fined and/or sent to prison.

The next hearing of this matter is on:.....
(Insert date)

YOU MUST ATTEND

If you disagree with this order you should go to the court and ask for an earlier hearing date.

DATED

Signed:
Magistrate/Supreme Court Judge.

BETWEEN:

.....
(full name and address)
Applicant

AND:

.....
.....
(full name and address)
Respondent

EX PARTE ORDER FOR

- a) Non violence
- c) Exclusive occupation
- b) Non Molestation

ON.....
(Insert Date) **THE COURT** heard an application from:.....
(Applicant) and **READING** the Documents placed before the court, the **COURT**
MAKES THE FOLLOWING ORDER(S) against the Respondent: -

THE COURT ORDERS that(insert name) shall serve this
order on the Respondent(insert name)
and(insert name) shall serve a copy on the Police.
If the Respondent(Insert name)
does not obey all of these orders then the police must arrest him/her and
bring him/her to court as quickly as possible.

