



Intimate Relationship Questionnaire

Summary of the Domestic Violence Act, 1998
Application Form for a Protection Order.



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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A photograph of a man and a woman in a close, intimate conversation. The man is on the left, looking towards the woman on the right. The woman has her hair in red braids and is looking down with a thoughtful expression. They are both wearing white shirts. The image is overlaid with a semi-transparent white and orange geometric shape.

PART A

Relevant questions about your
intimate relationship

HOW IS YOUR RELATIONSHIP WITH YOUR INTIMATE PARTNER?

Sometimes parties in an intimate relationship are not aware that their behavior is abusive or are being abused by their partners. Please take this opportunity to assess if you are abused or an abuser in your intimate relationship.

1. Do you find that your partner often prevents you from seeing friends or participate in activities that do not include him / her?

Yes		No	
-----	--	----	--

Do you find that you often stop your partner from seeing his /her friends or participate in activities that do not include you?

Yes		No	
-----	--	----	--

2. Does your partner frequently check your whereabouts when he/she is not with you?

Yes		No	
-----	--	----	--

Do you frequently check the whereabouts of your partner whenever you are not with him/her?

Yes		No	
-----	--	----	--

3. Are you scared of receiving phone calls from the opposite sex in the presence of your partner?

Yes		No	
-----	--	----	--

Are you suspicious when your partner receives phone calls from the opposite sex in your presence?

Yes		No	
-----	--	----	--

4. Do you feel pressured to explain to your partner each time you receive a phone call from an opposite sex?

Yes		No	
-----	--	----	--

Do you demand an explanation from your partner each time he/she receives a phone call from an opposite sex?

Yes		No	
-----	--	----	--

5. Does your partner read your e-mails, smses, history of calls, Facebook or any social media communication without your permission?

Yes		No	
-----	--	----	--

Do you read the e-mails, smses history of calls, Facebook/Tweeter entries or any social media communication from the device of your partner without his/her permission?

Yes		No	
-----	--	----	--

6. Does your partner openly criticize the way you dress, talk or do things?

Yes		No	
-----	--	----	--

Do you openly criticize your partner for the way he/ she dresses, talks or does things?

Yes		No	
-----	--	----	--

7. Are there times when your partner teases you to deliberately hurt your feelings?

Yes		No	
-----	--	----	--

Are there times when you tease your partner to deliberately hurt him/her?

Yes		No	
-----	--	----	--

8. Does your partner make fun of you in front of family members, friends or strangers?

Yes		No	
-----	--	----	--

Do you make fun of your partner in front of family members, friends or strangers?

Yes		No	
-----	--	----	--

9. Does your partner deliberately ignore you when he/she is with friends or family members?

Yes		No	
-----	--	----	--

Do you deliberately ignore your partner when you are with your friends or family members?

Yes		No	
-----	--	----	--

10. Does your partner usually decide what you do during your time together?

Yes		No	
-----	--	----	--

Do you usually impose your decision on your partner on how you should spend your time together?

Yes		No	
-----	--	----	--

11. Do you often feel pressured to do something you do not approve of?

Yes		No	
-----	--	----	--

Do you often pressurize your partner to do something he/she does not approve of?

Yes		No	
-----	--	----	--

12. Has your partner ever hit you or threatened to hit you?

Yes		No	
-----	--	----	--

Have you ever assaulted or threatened to assault your partner?

Yes		No	
-----	--	----	--

13. Do you feel scared to say, 'NO' to your partner without giving reasons?

Yes		No	
-----	--	----	--

Does your partner feel scared to say 'NO' to you without having to explain himself/ herself?

Yes		No	
-----	--	----	--

14. Does your partner force you to engage in sexual activities you are uncomfortable with?

Yes		No	
-----	--	----	--

Do you force your partner to engage in sexual activities that make him/ her uncomfortable?

Yes		No	
-----	--	----	--

15. Do you often feel pressured by your partner to have sex without a condom or any protection?

Yes		No	
-----	--	----	--

Do you pressurize your partner to have sex with you without a condom or any protection?

Yes		No	
-----	--	----	--

16. Does your partner exchange favours for sex?

Yes		No	
-----	--	----	--

Do you make your partner to have sex with you in exchange for favours?

Yes		No	
-----	--	----	--

17. Does your partner make you feel bad about yourself?

Yes		No	
-----	--	----	--

Do you make your partner feel bad about himself / herself?

Yes		No	
-----	--	----	--

18. Are you afraid to express your views to your partner?

Yes		No	
-----	--	----	--

Do you make your partner scared to express himself / herself freely to you?

Yes		No	
-----	--	----	--

19. Does your partner often compare you with his/her previous intimate partner to hurt you?

Yes		No	
-----	--	----	--

Do you often compare your partner with your previous intimate partner to hurt him/her?

Yes		No	
-----	--	----	--

20. Does your partner often invite you to an outing, and then expect you to foot the bill?

Yes		No	
-----	--	----	--

Do you often invite your partner to an outing and expect him / her to foot bill?

Yes		No	
-----	--	----	--

21. Do you often feel compelled to pay your partner's debts or expenses?

Yes		No	
-----	--	----	--

Do you often compel your partner to pay your debts or expenses?

Yes		No	
-----	--	----	--

22. Are you often forced to get your partner's permission to do a paid job?

Yes		No	
-----	--	----	--

Do you often force your partner to get your permission before taking on a job for an income.

Yes		No	
-----	--	----	--

23. Has your partner ever disposed of shared goods or property without involving you?

Yes		No	
-----	--	----	--

Do you feel entitled to dispose of shared goods or property without involving your partner?

Yes		No	
-----	--	----	--

24. Does your partner often threaten to end the relationship if you don't submit to his / her demands?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

Do you threaten to end the relationship if your partner does not do what you want/ demand?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

25. Does your partner make you feel unsafe in this relationship?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

Do you make your partner feel unsafe in this relationship?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

If you have ticked **'YES'** in any of the questions, you should be concerned as you are likely a victim or an abuser in your relationship.

If you are an abused partner, please read on to learn about your rights and how to exercise them.

Quickly go to the nearest magistrate's court to apply for a protection order and/ or lay a criminal charge with the police.

Application Form for a Protection Order
(Form 2).



PART B

Summary of the Domestic Violence
Act, 1998 (ACT 116 of 1998)

PART A: HOW TO OBTAIN A PROTECTION ORDER?

1. WHAT IS A PROTECTION ORDER?

It is a written order that is issued by the magistrate's or family court to stop any person from committing any act of domestic violence against another person with whom he or she has a domestic relationship.

2. WHAT IS DOMESTIC VIOLENCE?

Domestic violence refers to forms of abuse which include physical abuse; emotional, verbal and psychological abuse; economic abuse; intimidation; harassment; stalking; damage to property; etc. The Act further gives an overarching 'catch all' definition of domestic violence that any abusive or controlling behaviour that threatens the health, safety and well-being of the complainant also amounts to domestic violence.

FORMS OF ABUSE IN TERMS OF THE DOMESTIC VIOLENCE ACT

Physical Abuse may include:

- Shoving, slapping, punching, kicking, throttling, biting
- Assault with objects, guns, knives or any other dangerous weapon

Sexual Abuse may include:

- Rape, attempted rape, indecent assault
- On-going verbal abuse with sexual slurs such as bitch, whore, slut, etc.

Emotional, Verbal and Psychological Abuse may include:

- Constant insults, ridicule or name calling
- Repeated threats of violence or death to cause emotional pain

Economic Abuse may include:

- Selling of shared property e.g. livestock, matrimonial house without the consent of the victim
- Accessing a joint bank account for personal use without the consent of the victim

Intimidation could be:

- Sending written or verbal death threats to the victim
- Sending beheaded dolls, small coffins, dead flowers or dead pets to the victim

Harassment may include:

- Repeatedly watching the victim outside or near her house, workplace, school or business premises or any place where she happens to be
- Repeatedly phoning the victim or causing any other person to phone her whether or not the caller speaks to the complainant

Stalking means, for example:

- Constantly approaching the victim and asking or demanding to talk to her against her will

Damage to Property may include acts of:

- Breaking the window to gain entry into the victim's house
- Cutting, breaking or damaging in any other manner shared furniture

Unauthorised Entry into the Victim's Residence may include:

- Using a duplicate key to gain access may also constitute domestic violence

Both men and women can be guilty of, and be victims of domestic violence.

3. WHO CAN APPLY FOR A PROTECTION ORDER?

- The person who seeks the Order is referred to as the complainant.
- The person who has or allegedly committed an act of domestic violence and against whom the Order is applied is for called the respondent.

3.1. The requirement of a Domestic Relationship

The complainant of domestic violence must be or must have been involved in a domestic relationship with the respondent to qualify for a protection order. A domestic relationship is defined in s 1 (vii) of the Act.

3.2. Persons who can apply for a Protection Order- s4

- The victim of domestic violence,
- Any minor without the assistance of a parent, guardian or any other person (s 4(4),
- Any person on behalf of the minor without the assistance of the minor's parent, guardian or any other person (s 4(4),
- Any person on behalf of the complainant who has a material interest in the well-being of the complaint, including counsellors, health workers, police, social workers or teachers. The written consent of the complainant is required, unless the complainant is a minor, mentally retarded, unconscious or is found by the court to be unable to give such consent (s 4(3)).

4. JURISDICTION – where can the application be made?

At the magistrate's court / family court situated within: -

- The area of the complainant's residence or employment or where he or she carries business – whether permanently or temporarily, or
- The area in which the respondent stays, works or carries business, or
- The area where the act of domestic violence was committed.

5. WHEN MAY THE APPLICATION BE MADE (s 4(5))?

- During the ordinary court hours and days.
- Outside ordinary court hours, during weekends or public holidays and when the court is satisfied that the complainant may suffer undue hardship if the application is not dealt with immediately (s 4(5). e.g. where the respondent used or is threatening to use a dangerous weapon against the complainant.

However, please note that not all courts are providing services after court hours/ days yet, mostly due to inadequate resources.

6. THE PROCEDURE OF OBTAINING THE PROTECTION ORDER

6.1. The complainant must visit the office of the clerk of the court immediately after the act of domestic violence is committed.

6.2. The Complainant must be informed of his/her rights that he/she has:

- The right to apply for a protection order,
- The right to also lay a criminal charge if the respondent's act of domestic violence also constitutes a crime, e.g. where the complainant was physically/ sexually abused (s 4(2),

These rights must be communicated to the complainant in the language in which the complainant best understands:

- » By the Police, i.e. where the report is made to them, and when it is reasonably possible to do so (s 2 (c)). In doing so, the police uses the prescribed Form 1 or
- » By the clerk of the court, i.e. if the complainant is not legally represented (s4 (2)). In this instance, the clerk will use the prescribed Form 3.

6.2.1. Possible Prohibitions of the Protection Order- s 7(1); Form 3

The Protection Order may prohibit the respondent from:

- Committing any specified act of domestic violence;
- Obtaining assistance from another person to commit any act of domestic violence;
- Entering the shared residence, if it appears to be in the interests of the complainant to do so. If necessary, the respondent may be further ordered to pay or continue to pay rent or mortgage bond attached to the shared residence (s7 (3));
- Entering any specified part of the shared residence, e.g. complainant's bedroom;
- Entering the complainant's residence (where parties are not staying together);
- Entering the complainant's work place;
- Preventing the complainant or any child who normally lives in the shared residence from entering or remaining in such residence or any part thereof; and
- Committing any other act determined by the court.

6.2.2. Additional Conditions- (s 7(2))

To protect and provide for the safety, health or well being of the complainant, the court may, if it deems reasonably necessary, impose on the respondent additional conditions, which may include an order:

- That a police officer accompanies complainant to a specified place to assist with arrangements regarding the collection of complainant's personal belongings, i.e. in cases where resistance of further violence is anticipated (s 7(2) (b); Personal belongings are items that are exclusively used by complainant or any other person.
- That arms or dangerous weapon(s) in the possession or control of the respondent be seized (s 7(2) (a);
- That respondent pays or contributes towards payment of rent or mortgage, if parties are or were sharing a house (s 7(3);
- That respondent pays emergency monetary relief, which relates to the monetary losses suffered by the complainant at the time of the issue of the protection order, such
 - » Loss of earnings;
 - » Medical and dental expenses;
 - » Relocation and accommodation expenses, or household necessities (s 7(4).
- That respondent contributes towards the maintenance of children. This condition will be valid until such time that the complainant is granted with the Maintenance Order by the maintenance court upon application.
- That the physical address of the complainant not be disclosed to the respondent (s 7(5);
- That the respondent be refused contact with any of the parties' child, if that will be in the interest of such child (s 7 (6)).

6.3. Application for the Protection Order by the complainant – s4(1)

The complainant must make her application by completing the prescribed affidavit (Form 2) with the assistance of the Clerk of the court, if necessary. Refer to Part C of this booklet.

6.4. Supporting Affidavits to accompany the complainant's application- s 4(6)

Affidavits of eyewitnesses or other persons who have the relevant knowledge or information regarding the alleged incident of domestic violence may be obtained to support the complainant's application, e.g. medical report confirming the injuries sustained.

6.5. Submission of the Application to court for consideration by the Clerk of the court- s4 (7)

As soon as all the necessary information is obtained, the clerk of the court must immediately submit complainant's affidavit and accompanying information (if any) to court for consideration.

6.6. Consideration of the Application by the court

6.6.2. When the Application is for the Interim Protection Order – s5

The court:

- » May call additional evidence, e.g. evidence of eye witness
- » Must grant the interim protection order if it is satisfied that:
 - The respondent has committed an act of domestic violence, and
 - » The complainant may suffer undue hardship from the alleged domestic violence if the protection order is not issued immediately.

The respondent must be served with the Interim Protection Order accompanied by complainant's application and supporting affidavits (if any)- s 5(3) by:

- » Clerk of the court,
- » Sheriff,
- » Peace officer, or
- » Any person so directed by the court (s13 (1)).

Where the complainant cannot afford to pay for the service fees – s13(2)

- » The State is required to provide her with the required financial assistance.
 - * Upon service of the Interim Protection Order on the respondent
- » The complainant must be served with the certified copy of the Interim Protection order and the suspended original warrant for the arrest of the respondent upon violation of such order- s 5(7).

6.6.2. When NO Interim Protection Order is issued- s5 (4)

Where the court is satisfied that the respondent has committed an act of domestic violence against the complainant, but is not satisfied that the complainant would suffer undue hardship if the order is not made immediately:

- » The respondent must be served with the Notice (Form 5) calling upon him to show as to why the protection order should not be granted against him.
- » The Notice must be accompanied by the complainant's application and the supporting affidavits, if any.

6.6.3 The Return Date – s 5(5)

- » May not be less than 10 days after the respondent has been served with the documents. This is to ensure that

the respondent is given reasonable time to respond to the complainant's allegations.

6.6.4 Upon consideration of the complainant's application on the return date, the court must do either of the following: -

- a. When the respondent fails to appear in court- s 6(1)
 - The court must grant the final order, if it is satisfied that:
 - » There was proper service on the respondent, and
 - » There is prima facie evidence i.e. information to the effect that it is likely that the respondent has committed the alleged act of domestic violence.
- b. When the respondent opposes the application –s 6(2)
 - » The court must consider the evidence on the balance of probabilities, and thereafter grants or refuses the application, as it deems appropriate.
 - » Where it is satisfied that respondent has committed or is committing an act of domestic violence against the complainant, the court must issue a protection order.

6.6.5 When the court issues the Protection Order and a stayed Warrant of Arrest

- » The original Protection Order must be immediately served on the respondent (s 6 (5) (a),
- » A certified copy of the Protection Order and the original warrant for the arrest of the respondent must be immediately served on the complainant, and
- » Certified copies of the Protection Order and warrant of arrest must be forwarded to the police station chosen by the

complainant (s 6(7)).

7. THE PROTECTION ORDER IS ENFORCEABLE NATIONWIDE-S12 (3)

- » The Protection Order is enforceable at any magistrate's / family court in SA. This means that a court in Cape Town will have jurisdiction to try an offence of a Violation of a Protection Order that was issued by a court in Pretoria. In terms of this provision, the complainant is afforded with meaningful, immediate and all-round protection.

8. UPON VIOLATION OF THE PROTECTION ORDER, THE COMPLAINANT MUST:

- » Immediately report such violation to the nearest police station.
- » Hand to the police the certified copy of the Protection Order and the original warrant of arrest for execution.
- » Make an affidavit stating in detail the manner in which the alleged violation occurred (Form 10)

9. ARREST OF RESPONDENT FOR VIOLATION OF PROTECTION ORDER

Where the respondent reports an alleged violation of the protection order to the police, the police official must arrest the respondent if there is a reasonable suspicion that the respondent has breached the order and that the complainant will be subjected to imminent/immediate harm as a result of such breach.

If the respondent is not arrested –

The police must issue the respondent with a notice to appear in court (Form 11) on a charge of violating the protection order.

10. VARIATION OF THE ORDER

The complainant or respondent may make an application for variation or amendment setting aside of the order (Form 12).

Before setting aside the order, the court must be satisfied, where an order for setting aside is made by the complainant that the complainant is doing so freely and voluntarily.

PART B: PROSECUTION FOR VIOLATION OF PROTECTION ORDER

1. The Charge
 - The violation of protection order is a serious crime that is punishable in law.
2. The Withdrawal restriction on violation of protection order- s18
 - Prosecutors are not allowed to withdraw any criminal charge of violation of the protection order (s17 (a)) without the authority of the Director of Public Prosecutions or any designee.
3. Proceedings under this Act may be held in private- s 11(1)
 - Persons who may be present in court are: -
 - » Officers of the court, i.e. magistrate, prosecutor, interpreter, intermediary (in the case involving children), etc.
 - » The parties to the proceedings,
 - » Legal representative,
 - » Not more than 3 support persons for the complainant,
 - » Not more than 3 support persons for the accused, and
 - » Any other person whom the court may permit his / her presence.

4. Any Child Witness

- May testify in camera (i.e. private) with the assistance of an intermediary in terms of s170 A of the Criminal Procedure Act, 1977 (Act No 51 of 1977)

5. Any Other Witness

- May testify in camera (i.e. private) by means of closed circuit television or any similar electronic media, especially when such witness is traumatised.

6. Offences- s17

In terms of the Act the following conduct constitutes crime: -

- The violation of any prohibition, condition or order imposed by the Protection Order,
- The publication in any manner of information, which might directly or indirectly reveal the identity of any party to the proceedings, i.e. of complainant/respondent;
- Failure to comply with any direction given by the court in terms of s 12(2)(b) regarding the prohibition of publication of any further information relating to the proceedings,
- The willful making of a false statement in respect of a material aspect in an affidavit by the complainant at the time he / she reports any violation of the protection order by the respondent.

7. Penalties – s 17

For offences 1 and 2 above, the respondent may be sentenced to pay a fine or undergo imprisonment for a period not exceeding five (5) years or to both such fine and imprisonment.

For offences 3 and 4 above, the respondent is liable on conviction to a fine or imprisonment for a period not exceeding three (3) years or to both such fine and imprisonment.

PART C: APPLICATION FORM (FORM 2)



REPUBLIC OF SOUTH AFRICA

FORM 2

[Regulation 4]

APPLICATION FOR PROTECTION ORDER

SECTION 4(1) OF THE DOMESTIC VIOLENCE ACT, 1998 (ACT NO. 116 OF 1998)

J480E

PART A : APPLICATION (To be completed by applicant)

1. PARTICULARS OF COMPLAINANT (Victim of domestic violence)

Surname :	
Full names :	
Id.No / Date of birth	
Home or temporary address :	
Home/contact telephone number :	
Work address :	
Work telephone number :	
Nature of domestic relationship with person who committed the act of domestic violence (Respondent):	
Occupation :	

2. PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE COMPLAINANT (if applicable)

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	
Home/contact telephone number :	

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Work address :	
Work telephone number :	
Occupation :	
Capacity in which application is made :	
Nature of relationship with the complainant :	
State reason(s) why application is made on behalf of the complainant:	
Indicate whether written consent of complainant has been obtained : (Delete whichever is not applicable)	<p>Written consent *has been obtained and is attached/is not necessary since the complainant is-</p> <ul style="list-style-type: none"> a minor (under the age of 21 years); mentally retarded; unconscious; unable to provide consent because <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

3. PARTICULARS OF PERSON WHO COMMITTED ACT OF DOMESTIC VIOLENCE (hereafter called the Respondent) - in so far as such particulars are available

Surname :	
Full names :	
Id.No / Date of birth	
Home address :	

Home/contact telephone number :	
Work address :	
Work telephone number :	
Occupation :	

4. PERSONS AFFECTED BY DOMESTIC VIOLENCE

4.1 Particulars of children and adults sharing the residence :

Name :	Age :	Relationship to complainant

4.2 How are these persons affected ?

4.3 Do any of these persons suffer disabilities? If so give details :

5. INFORMATION REGARDING ACTS OF DOMESTIC VIOLENCE

Department of Justice and Constitutional Development

Give full details regarding all incidents of domestic violence and also indicate whether firearms or other dangerous weapons were used, what injuries have been sustained and whether medical treatment was obtained :

6. INFORMATION REGARDING URGENCY OF APPLICATION

Submit the reasons why the Court has to consider the application as a matter of urgency and why undue hardship may be suffered if the application is not dealt with immediately

7. TERMS OF PROTECTION ORDER

It is requested that the Respondent must be ordered (Mark appropriate box and

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complete where necessary) :

(a)	Not to commit any act of domestic violence	
(b)	Not to get the help of another person to commit any act of domestic violence	
(c)	Not to enter the shared residence, situated at	
(d)	Not to enter a specified part of the shared residence, namely	
(e)	Not to enter the Complainant's residence, situated at	
(f)	Not to enter the Complainant's place of employment, namely	
(g)	Not to prevent the Complainant or any child who ordinarily live(s) or lived in the shared residence from entering or remaining in the shared residence or any part thereof, to wit	
(h)	Not to commit any other act, namely	

8.ADDITIONAL CONDITIONS

It is also requested that the Court must order that (mark appropriate box and complete where necessary) :

(a)	A peace officer, namely, is to accompany the Complainant to assist with arrangements regarding the collection of the Complainant's personal property set out in paragraph 9, below.	
(b)	A member of the South African Police Service is to seize the following arm(s) or dangerous weapon(s) in the possession of the Respondent:	
(c)	The Respondent is to pay the following rent or mortgage payments:	

(d)	The Respondent is to pay the following emergency monetary relief:	
(e)	The Respondent is refused any contact with the following child or children:	
(f)	The Respondent is granted the following contact with the above-mentioned child or children:	
(g)	The physical address of the Complainant's residence not be disclosed to the Respondent	
(i)	Other conditions requested :	

9. PERSONAL PROPERTY

Property description:	Grounds on which property is considered to be personal property :	Address where property is kept:

10. I am likely to report a breach of the Protection Order at the _____ Police Station.

DEPONENT
 (Person who applies for order)

DATE

PART B : CERTIFICATION (for official use)
--

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

- (a) Do you know and understand the contents of the above declaration?
Answer _____.
- (b) Do you have any objection to taking the prescribed oath?
Answer _____.
- (c) Do you consider the prescribed oath to be binding on your conscience?
Answer _____.

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

Dated at _____ this ____ day of _____ year ____.

Justice of the Peace / Commissioner of Oaths

Full Names _____

Designation _____

Area for which appointed _____

Business Address _____

Chief Directorate: Promotion of the Rights of Vulnerable Groups
Department of Justice and Constitutional Development:
Momentum Centre: 329 Pretorius Street (c/o Pretorius & Sisulu St), Pretoria, Private Bag X81,
Pretoria, 0001, Tel: 012 315 1111 / www.justice.gov.za
SALU Building: 316 Andries* Street (c/o Thabo Sehume & Francis Baard Streets) Pretoria, Tel: 012 406 4600