Fighting Domestic Violence - Malaysia

4. Protection for domestic violence victims and relief granted

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# 4.1 Civil protection orders

# 4.1.1 Are there civil protection orders available to victims of domestic abuse?

Yes. There are three types of civil protection orders available to victims of domestic abuse under the Domestic Violence Act 1994, as follows:

emergency protection order (EPO)

interim protection order (IPO)

protection order (PO)[14]

# 4.1.2 Who can petition for civil protection orders?

**EPO:**

Victims of perpetrators who have (i) willfully or knowingly placed, or attempted to place, the victim in fear of physical injury; or (b) caused physical injury to the victim by an act that they knew or ought to have known would result in physical injury, or the victims' lawyer can petition for an emergency protection order.

Where the victim is a child or an incapacitated adult, the guardian, relative or the carer of the child or incapacitated adult can apply on their behalf.

**IPO and PO:**

Victims of acts of domestic violence (as set out in the definition of "domestic violence" under the Domestic Violence VA) or the victim's lawyer or social welfare officer from the Social Welfare Department can apply.

Where the victim is a child or an incapacitated adult, the guardian, relative or the carer of the child or incapacitated adult can apply on their behalf.

Note that applications may be made in the absence of the offender.

# 4.1.3 Are there temporary custody of a child or child support orders?

Yes.

**Temporary custody**: A Protector[15] or police officer who is satisfied on reasonable grounds that a child is in need of care and protection may take the child into temporary custody.[16]

**Child support orders**: The court may at any time order a man to pay maintenance for the benefit of his child:[17]

if he has refused or neglected reasonably to provide for the child

if he has deserted his wife and the child is in her charge

during the pendency of any matrimonial proceedings

when making or subsequent to the making of an order placing the child in the custody of any other person

Note that the court also has the corresponding power to order a woman to pay or contribute toward the maintenance of her child where it is reasonable based on her means to contribute.

# 4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

Yes.

**EPO:**

The offender may be prohibited from entering a protected person**'**s place of residence or shelter.

**IPO and PO:**

An order may:

grant a protected person the right to exclusive occupation at a shared residence

prohibit the offender from entering any place of residence, shelter or place of employment of a protected person or going within a distance of at least 50 meters of a protected person

prohibit the offender from personally contacting a protected person other than in the presence of a police officer or social welfare officer or deny communication altogether

# 4.1.5 Are there any other types of emergency, preventive and civil protection orders?

 Please see the response to "Are there civil protection orders available to victims of domestic abuse?" under Section 4.1 above.

# 4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

 Yes. Please see the response to "Who can petition for civil protection orders?" under Section 4.1 above.

# 4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?

Yes. Please see the response to "Are there civil protection orders available to victims of domestic abuse?" under Section 4.1 above.

# 4.1.8 Are ex parte orders permitted without the aggressor being present?

Yes. All protective orders may be made *ex parte*.

# 4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

No. The protection order is limited to protection of a specified protected person, and not the family members of the victim.

# 4.1.10 How long do the orders last?

**EPO:**

An emergency protection order is valid for seven days from the date of issuance of the order.

**IPO:**

An interim protection order is valid until:

completion of criminal investigations and decision that no further action is to be taken against the alleged offender

seven days after the victim is informed about the commencement of criminal proceedings against the offender where no application for a protection order is made

determination of an application for a protection order

set aside by the court

**PO:**

A protection order is valid for 12 months from the date of commencement of the order, but:

new orders may be made/an existing protection order may be renewed if the offender contravenes the existing order

an existing order may be extended once, for no longer than 12 months, if the court is satisfied that the extension is necessary for the protection and personal safety of the protected person or persons

# 4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.

The [official portal](https://wao.org.my/) of Women's Aid Organisation provides information on, among other things, domestic violence laws in Malaysia, how to obtain an emergency protection order/interim protection order/protection order, and guidance for victims to seek help in domestic violence incidents(s).

# 4.2 Steps for receiving a protective order

# 4.2.1 What documentation is needed to obtain a civil protection order?

**EPO:**

a completed prescribed Form 1 under the Domestic Violence (Prescribed Forms) Regulations 2018

the victim's national identity card (or birth certificate if the victim is a child without national identity card)

**IPO:**

police report

referral letter from the police officer that the police is investigation the alleged domestic violence case

the victim's national identity card (or birth certificate if the victim is a child without a national identity card)

**PO:**

letter from the social welfare department

letter from the police confirming that the case has been charged in court

the victim's national identity card (or birth certificate if the victim is a child without a national identity card)

# 4.2.2 Does the victim need to attend a hearing?

Potentially, yes. The victim will need to provide a statement on the alleged domestic violence incident(s) at the police station. Subsequently, the victim may be required to provide witness testimony at trial if the alleged offender is charged in court.

# 4.2.3 Can you request remedies?

Yes. A victim of domestic violence may claim compensation for personal injuries, damage to property and financial loss as a result of domestic violence.[18]

The court hearing a claim for such compensation may take into account:

the pain and suffering of the victim, and the nature and extent of physical injury or psychological abuse, which includes emotional injury suffered

the cost of medical treatment for such injuries

any loss of earnings arising therefrom

the amount or value of the property taken or destroyed or damaged

necessary and reasonable expenses incurred by or on behalf of the victim when the victim is compelled to separate or be separated from the defendant due to the domestic violence, such as:

lodging expenses to be contributed to a safe place or shelter

transport and moving expenses

the expenses required in setting up a separate household, which, subject to the following paragraph, may include housing loan payments or rental payments or part thereof of the shared residence, or an alternative residence as the case may be, for such period as the court considers just and reasonably necessary

In considering any necessary and reasonable expenses that may be taken into account to set up a separate household, the court may also take into account:

the financial position of the victim as well as that of the defendant

the relationship that exists between the parties and the reasonableness of requiring the defendant to make or contribute toward such payments

the possibility of other proceedings being taken between the parties and the matter being more appropriately dealt with under the relevant laws relating to the financial provision of spouses or former spouses and other dependents

# 4.2.4 Are there time limits?

**EPO:**

There are no time limits to a request for an emergency protection order.

**IPO:**

An interim protection order may be sought after a domestic violence complaint has been filed with the police and pending investigations by the police.

**PO:**

A protection order may be sought:

where an interim protection order has been issued against the alleged offender, within seven days after the victim has been informed in writing by a police officer that a criminal proceeding will be instituted against the alleged offender (i.e., the person against whom the interim protection order was made)

at any stage of the criminal proceedings against an alleged offender charged with a domestic violence offense

Note that the duration of validity of each type of protection order is highlighted in the response to "How long do the orders last?" under Section 4.1 above.

# 4.2.5 Are there different rules in emergencies?

Yes. The victim may apply for an emergency protection order in the events of an emergency (which, in most cases, is issued within two hours of application). Please refer to the relevant responses concerning the application for an emergency protection order.

# 4.3 Judicial discretion

# 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

**EPO:**

An emergency protection order is granted by an authorized officer of the Social Welfare Department. The authorized officer generally has unfettered discretion in granting the emergency protection order.

**IPO and PO:**

The court generally has unfettered discretion in granting interim protection orders and protection orders, provided that it is satisfied on the balance of probabilities that it is necessary for the protection and personal safety of the victim.

# 4.3.2 Are there age limits on who can obtain orders?

No. The Domestic Violence Act 1994 does not prescribe a minimum or maximum age limit on persons who can obtain an emergency protection order, interim protection order and protection order.

# 4.4 Restitution and remedies available to victims

# 4.4.1 Can victims obtain reimbursement for costs and restitution paid?

Please see the response to "Can you request remedies?" under Section 4.1 above.

# 4.4.2 Can they recover wages and profits lost?

Please see the response to "Can you request remedies?" under Section 4.1 above.

# 4.4.3 Is a separate civil process required?

If the alleged offender is tried under criminal proceedings for domestic violence-related offenses (and where an interim protection order or protection order has been applied for), a separate civil proceeding will be required for the victim to claim compensation.[19]

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