



# SUMMARY JURISDICTION (DOMESTIC ABUSE PROTECTION ORDER PROCEEDINGS) RULES 2023

## Index

Rule	Page
<b>PART 1 - INTRODUCTORY</b>	<b>3</b>
1 Title .....	3
2 Commencement .....	3
3 Interpretation.....	3
4 Proceedings to which these Rules apply .....	5
5 Parties .....	5
<b>PART 2 – STARTING PROCEEDINGS</b>	<b>6</b>
6 Requests for leave to make an external party application .....	6
7 Making an application with notice: personal applications, external party applications and section 15(5) applications .....	6
8 Making an application: mandatory police applications.....	7
9 Making an application without notice: personal applications, external party applications and section 15(5) applications .....	8
10 Court action on receipt of an application .....	9
11 Service of an application.....	9
12 Withdrawal of request for leave or application.....	9
13 Answering an application .....	10
<b>PART 3 – CASE MANAGEMENT</b>	<b>10</b>
14 Case management.....	10
15 Amendment of application or answer.....	11
<b>PART 4 – EVIDENCE</b>	<b>12</b>
16 Power of court to control evidence .....	12
17 Documentary evidence .....	12
18 Oral evidence.....	13
19 Disapplication of section 10(1) of the 2008 Act.....	13
<b>PART 5 – PROCEEDINGS</b>	<b>13</b>
20 The hearing of an application .....	13
21 DAPO proceedings.....	14

<b>PART 6 - ORDERS</b>	<b>14</b>
22 Content of DAPO .....	14
23 DAPO made without notice.....	15
24 Service of DAPO.....	15
25 Service of a DAPO on police and responsible persons .....	16
<b>PART 7 – VARIATION AND DISCHARGE OF DAPOS</b>	<b>16</b>
26 Application of Part.....	16
27 Requests for leave to apply for discharge or variation of a DAPO.....	16
28 Variation or discharge applications: application with notice .....	17
29 Variation of a DAPO: application without notice.....	18
30 Service of variation or discharge application with notice .....	18
31 Answering a variation or discharge application.....	19
32 Proceedings to vary or discharge a DAPO .....	19
33 Service of an order made under this Part .....	20
<b>PART 8 – ENFORCEMENT</b>	<b>21</b>
34 Interpretation: Part 8.....	21
35 Request for leave to apply for a warrant of arrest.....	21
36 Application for warrant of arrest.....	21
37 Proceedings following arrest .....	21
38 Bail applications .....	22
39 Recognisances .....	22
<b>PART 9 – GENERAL AND SUPPLEMENTARY</b>	<b>23</b>
40 Service of documents: general.....	23
41 Service of documents: section 15(5) applications.....	23
42 Service of documents: applications other than section 15(5) applications.....	23
43 Court documents.....	24
<b>ENDNOTES</b>	<b>26</b>
<b>TABLE OF ENDNOTE REFERENCES</b>	<b>26</b>

Statutory Document No. 2023/0040



*Summary Jurisdiction Act 1989*  
*Domestic Abuse Act 2020*  
*Administration of Justice Act 2008*

## SUMMARY JURISDICTION (DOMESTIC ABUSE PROTECTION ORDER PROCEEDINGS) RULES 2023<sup>1</sup>

*Laid before Tynwald:* 16 May 2023  
*Coming into Operation:* in accordance with rule 2

The Clerk of the Rolls makes the following Rules under section 91 of the Summary Jurisdiction Act 1989, paragraph 7 of the Schedule to the Domestic Abuse Act 2020 and section 10(2)(a) of the Administration of Justice Act 2008.

### PART 1 - INTRODUCTORY

#### 1 Title

These Rules are the Summary Jurisdiction (Domestic Abuse Protection Order Proceedings) Rules 2023.

#### 2 Commencement

These Rules come into operation on 20 January 2023.

#### 3 Interpretation

(1) In these Rules —

“**the 1989 Act**” means the Summary Jurisdiction Act 1989;

“**the 2008 Act**” means the Administration of Justice Act 2008;

“**the 2020 Act**” means the Domestic Abuse Act 2020;

“**application**” without more, means a personal application, external party application, section 15(5) application or mandatory police application, unless the context requires otherwise;

“**appropriate form**” means an application, a variation or discharge application, a request for the leave of the court, an answer or other type of application or communication with the court, as the context permits, which is made in

writing and which includes all the information required by these Rules in each case;

“**connected tenant**” means a person who is a tenant in common or joint tenant of

—

- (a) a respondent; or
- (b) a person against whom a court makes a DAPO under section 17 of the 2020 Act;

“**court**” means a court of summary jurisdiction;

“**court office**” means the division of the General Registry dealing with the business of the court;

“**court officer**” means a member of staff of the court or court office;

“**DAPN**” means a domestic abuse protection notice (see section 7(2) of the 2020 Act);

“**DAPO**” means a domestic abuse protection order (see section 14(1) of the 2020 Act);

“**external party application**” means an application for a DAPO by way of a complaint under section 15(4) of the 2020 Act by a person described in section 15(2)(b), (c) or (d) of that Act, but does not include a mandatory police application;

“**filing**” in relation to a document, means delivering it, by post or otherwise, to the court office and “**file**” and “**filed**” are to be construed accordingly;

“**justice**” means a justice of the peace;

“**mandatory police application**” means an application for a DAPO by a police officer by way of a complaint under section 15(3) and (4) of the 2020 Act;

“**personal application**” means an application for a DAPO by way of a complaint under section 15(4) of the 2020 Act by the person for whose protection the DAPO is sought;

“**personally connected**” has the meaning in section 5 of the 2020 Act;

“**prescribed fee**”, in relation to any matter, means the fee prescribed for that matter under section 81 of the Interpretation Act 2015;

“**respondent**”, other than in Part 8, means the person against whom an application for a DAPO is made, not including a connected tenant;

“**section 15(5) application**” means an application for a DAPO to the court under section 15(5) of the 2020 Act by a person for whose protection the DAPO is sought;

“**statement of truth**” in relation to an application, answer, witness statement or any other document in these Rules, means a declaration by the person signing the document (or the person on whose behalf the document is signed) that the facts stated in the document are true;

“**variation or discharge application**” means an application for the variation or discharge of a DAPO under Part 7 (variation and discharge of DAPOs); and

“**witness statement**” has the meaning given in rule 17(1) (documentary evidence).

(2) An application for a DAPO, other than a section 15(5) application, must, in accordance with section 15(4) of the 2020 Act, be made by complaint and accordingly, when such an application is made a reference in these rules to the applicant is deemed to be a reference to the complainant and a reference to the respondent is deemed to be a reference to the defendant.

#### **4 Proceedings to which these Rules apply**

These Rules apply to proceedings in a court of summary jurisdiction —

- (a) in respect of an application made under Division 2 of Part 2 of the 2020 Act; and
- (b) in respect of a DAPO made by the court under section 17(2) of the 2020 Act.

#### **5 Parties**

(1) Unless the court otherwise directs, the parties to proceedings to which these Rules apply are —

- (a) in the case of an application other than a section 15(5) application, the applicant, the respondent and any connected tenant named in the application;
- (b) in the case of a section 15(5) application, the parties to the proceedings in which the application is made and any connected tenant named in the application;
- (c) in the case of a DAPO made by the court without application under section 17(2) of the 2020 Act, the parties to the proceedings in which the DAPO is made and any connected tenant named, or to be named, in the DAPO.

(2) The court may direct that a person be joined as a party to proceedings or that a party to the proceedings cease to be such a party —

- (a) on its own initiative; or
- (b) on a request in writing filed by a party to the relevant proceedings.

(3) If the court makes a direction under paragraph (2)(a), the court officer must inform the parties of the direction.

(4) The court must consider any request made under paragraph (2)(b) and —

- (a) grant it without a hearing or representations, in which case the court officer must inform the parties of that decision;

- (b) order a date to be fixed for the consideration of the request, in which case the court officer must give notice of the date so fixed, together with a copy of the request, to the parties; or
- (c) invite the parties or any of them to make written representations with respect to the request within a specified period, in which case on the expiry of the period the court must proceed to determine the request and inform the parties of its decision.

## **PART 2 – STARTING PROCEEDINGS**

### **6 Requests for leave to make an external party application**

- (1) A person may make a request for the leave of the court to make an external party application under section 15(2)(d) of the 2020 Act by filing a request for leave in the appropriate form, together with any supporting documentation.
- (2) A request for leave under this rule must be verified by a statement of truth and must include the following particulars –
  - (a) the name of the person requesting the leave of the court;
  - (b) the relationship of that person to the person for whose protection a DAPO is sought by an external party application;
  - (c) the relationship (if any) of that person to the respondent to the intended external party application; and
  - (d) the reasons why leave of the court is sought to make an external party application.
- (3) A request for leave under this rule must be included in the external party application for the making of which leave is sought, which will proceed only if leave is granted.

### **7 Making an application with notice: personal applications, external party applications and section 15(5) applications**

- (1) This rule applies to a personal application, external party application and a section 15(5) application made with notice.
- (2) An application to which this rule applies may be made by the applicant, or an advocate acting on the applicant's behalf, filing with the court –
  - (a) the application in the appropriate form;
  - (b) the accompanying documentation required under this rule; and
  - (c) copies of the application and accompanying documentation for service on –
    - (i) the respondent; and

- (ii) any connected tenant named in the application, if applicable.
- (3) An application to which this rule applies must include the following particulars —
  - (a) the name and address of the applicant, and (if different) the name and address of the person for whose protection the DAPO is sought;
  - (b) the name and address of the respondent and of any connected tenant included in the application;
  - (c) details of how the applicant (or the person for whose protection the DAPO is sought, where this is not the applicant) and the respondent are personally connected;
  - (d) a concise statement of the reasons for the application;
  - (e) details of any requirement, prohibition or restriction the applicant seeks to be imposed on the respondent by a DAPO; and
  - (f) details of any prohibition under section 22(5)(a) or (d) of the 2020 Act that the applicant seeks to be imposed on a connected tenant by a DAPO.
- (4) Despite paragraph (3)(a), an applicant may expressly decline to reveal the address of the person for whose protection the DAPO is sought in the application and instead file notice of that address in the appropriate form.
- (5) An address filed in accordance with paragraph (4) must not be revealed to any person except by order of the court.
- (6) An application to which this rule applies must be supported by a witness statement verified by a statement of truth.
- (7) An application to which this rule applies must be signed —
  - (a) by the applicant, if the applicant makes the application in person; or
  - (b) by an advocate acting for the applicant, and the advocate must, if acting as a member or employee of a firm, sign the application in the name of the firm.
- (8) An application to which this rule applies must be accompanied by the prescribed fee.

## **8 Making an application: mandatory police applications**

- (1) A mandatory police application must be made by the applicant filing with the court —
  - (a) the application in the appropriate form;
  - (b) the accompanying documentation required under this rule; and

- (c) copies of the application and the accompanying documentation for service on —
  - (i) the respondent; and
  - (ii) any connected tenant named in the application, if applicable.
- (2) A mandatory police application must —
  - (a) be accompanied by the written authorisation of a police officer of or above the rank of inspector to the making of the application;
  - (b) include the particulars specified in rule 7(3) (making an application with notice: personal applications, external party applications and section 15(5) applications);
  - (c) include a copy of the DAPN issued to the respondent and any connected tenant, specifying the date on which the DAPN was given to the respondent and to any connected tenant;
  - (d) be supported by a witness statement verified by a statement of truth; and
  - (e) be signed by the applicant.
- (3) For the purposes of paragraph (2)(b), rules 7(4) and 7(5) apply to a mandatory police application as they do to an application made under rule 7.

## **9 Making an application without notice: personal applications, external party applications and section 15(5) applications**

- (1) A personal application, an external party application or a section 15(5) application may be made without notice by an applicant, or an advocate acting on the applicant's behalf, filing the application in the appropriate form.
- (2) An application made under this rule must —
  - (a) include the particulars specified in rule 7(3) (making an application with notice: personal applications, external party applications and section 15(5) applications);
  - (b) include the reasons why the applicant considers that a DAPO should be made against the respondent without notice to the respondent;
  - (c) be supported by a witness statement verified by a statement of truth;
  - (d) be signed in accordance with rule 7(7); and
  - (e) be accompanied by the prescribed fee.
- (3) For the purposes of paragraph (2)(a), rules 7(4) and 7(5) apply to an application made under this rule as they do to an application made under rule 7.



## **10 Court action on receipt of an application**

- (1) On receipt of an application, the court officer must, as soon as reasonably practicable –
  - (a) fix a time, date and place for a hearing of the application allowing sufficient time for the service requirements in rule 11 (service of an application) to be complied with;
  - (b) endorse the time, date and place fixed for the hearing on the copies of the application filed by the applicant; and
  - (c) immediately return the copies of the application and all accompanying documentation to the applicant.
- (2) The court officer must fix a date for the hearing of a mandatory police application within 14 days of the date of the DAPN being given to the respondent.
- (3) In the case of an application made under rule 9 (making an application without notice: personal applications, external party applications and section 15(5) applications), the court officer must fix a time, date and place for a hearing of the application and inform the applicant as soon as reasonably practicable.

## **11 Service of an application**

- (1) On receipt of copies of an application returned to the applicant under rule 10(1)(c) (court action on receipt of an application), the applicant must serve –
  - (a) a copy of the application, endorsed in accordance with rule 10(1)(b), together with any witness statement made in support; and
  - (b) all accompanying documentation,on the respondent and on any connected tenant named in the application at least 7 days before the date fixed for the hearing under rule 10(1)(a) or within such shorter period as the court may direct.
- (2) The applicant must file a certificate of service for each person served after serving an application.
- (3) This rule does not apply to an application made without notice under rule 9 (making an application without notice: personal applications, external party applications and section 15(5) applications).

## **12 Withdrawal of request for leave or application**

- (1) A request for leave under rule 6 (requests for leave to make an external party application) may be withdrawn by the person making the request at any time before a determination of the request, by filing notice of withdrawal in the appropriate form.

- (2) An application made without notice under rule 9 (making an application without notice: personal applications, external party applications and section 15(5) applications) may be withdrawn by an applicant at any time before it is determined, by filing notice of withdrawal in the appropriate form.
- (3) An application may otherwise be withdrawn by an applicant at any time before it is served on any person by filing a notice in the appropriate form.
- (4) An application that has been served on any person may be withdrawn at any time unless it has been made by or on the behalf of a person under 18 years old, in which case the application may only be withdrawn with the leave of the court which may be given without a hearing if the court considers it appropriate to do so.
- (5) Where an application has been withdrawn under paragraph (4) –
  - (a) without the leave of the court, the applicant must file and serve on the other parties a notice of withdrawal in the appropriate form;
  - (b) with the leave of the court, the applicant must serve on the other parties notice of withdrawal by leave of the court in the appropriate form.

### **13 Answering an application**

- (1) A respondent and any connected tenant served with an application may file an answer to the application in the appropriate form at any time up to the day before the date of the hearing of the application.
- (2) Any answer filed under paragraph (1) must be served on the applicant at the same time that it is filed.
- (3) An answer may be supported by a witness statement verified by a statement of truth.
- (4) An answer must be verified by a statement of truth and signed –
  - (a) by the respondent or connected tenant (as the case may be), if the respondent or connected tenant makes the answer in person; or
  - (b) by an advocate acting for the respondent or connected tenant (as the case may be), and the advocate must, if acting as a member or employee of a firm, sign the application in the name of the firm.

## **PART 3 – CASE MANAGEMENT**

### **14 Case management**

- (1) The court must actively manage the proceedings in respect of an application, which includes –

- (a) progressing the application expeditiously and discouraging delay in the proceedings;
  - (b) ensuring evidence is presented in the shortest and clearest way;
  - (c) making use of technology, where appropriate and where the court has power to do so.
- (2) The court may give, vary or revoke directions for the conduct of proceedings, whether on a request by a party or on its own initiative, including directions in respect of the following matters –
  - (a) setting a timetable for the proceedings;
  - (b) the conduct of the hearing and attendance of witnesses;
  - (c) the submission of evidence;
  - (d) the service of documents and orders;
  - (e) the service of notice of a hearing or adjourned hearing;
  - (f) shortening or extending (even after it has expired) the time for compliance with any rule, direction or court order.
- (3) The court may at any time, on a request by a party or on its own initiative, adjourn a hearing where it considers it appropriate to do so.
- (4) The court may determine any preliminary issue with or without a hearing and dismiss or give a decision on an application after a decision on a preliminary issue.
- (5) Without limiting the generality of paragraph (4), the court may determine as a preliminary issue whether an application has been properly made under the relevant provisions of the 2020 Act, but must not make a determination on such an issue without providing the applicant with an opportunity to make representations.

## **15 Amendment of application or answer**

- (1) An application or answer which has been filed and served may not be amended without leave of the court.
- (2) Leave of the court to amend an application or answer must be by a request in writing.
- (3) Any amended application or answer must be filed and served on the persons on whom it was served prior to amendment, within the time and in the manner that the court directs.

## PART 4 – EVIDENCE

### 16 Power of court to control evidence

- (1) The court may control the evidence in respect of an application by giving directions as to –
  - (a) the issues on which it requires evidence;
  - (b) the nature of the evidence that it requires to decide those issues; and
  - (c) the way in which the evidence is to be placed before the court.
- (2) The court may use its powers under this rule to exclude evidence that would otherwise be admissible.
- (3) In circumstances in which legislation other than these Rules permits, the court may limit cross-examination.

### 17 Documentary evidence

- (1) A witness statement is a written statement signed by a person which contains the evidence which that person would be allowed to give orally.
- (2) A party to proceedings in respect of an application made on notice must file and serve on the other parties any witness statement of the oral evidence on which the party filing and serving the witness statement intends to rely at the hearing of the application.
- (3) Where an applicant seeks a DAPO that imposes a requirement on a respondent or connected tenant to do something, the court may require the applicant to –
  - (a) identify the person who is to be responsible for supervising the respondent's or connected tenant's compliance; and
  - (b) file and serve evidence from that person about the suitability and enforceability of that requirement.
- (4) Where an applicant seeks a DAPO that would impose an electronic monitoring requirement, the court may require the applicant to –
  - (a) identify any person, other than the respondent, without whose co-operation it would be impracticable to secure the monitoring in question; and
  - (b) file and serve evidence of that person's consent.
- (5) A witness statement must be –
  - (a) made in the appropriate form;
  - (b) dated;
  - (c) signed by the person making it; and
  - (d) verified by a statement of truth.

- (6) A copy of any document or report on which a party intends to rely at the hearing of the application must be filed with the court at or by such time as the court directs or, in the absence of a direction, before the hearing of the application.
- (7) A party to proceedings in respect of an application made on notice must serve on the other parties copies of any documents or reports filed under paragraph (6).
- (8) Documentary evidence to be served under paragraph (7) must be served at or by such time as the court directs or, in the absence of a direction, before the hearing of the application.
- (9) At a hearing of an application, a party may not adduce or seek to rely on documentary evidence that the party has not filed and served in accordance with this rule without leave of the court.

## **18 Oral evidence**

- (1) At the hearing of an application, the proceedings must be tape recorded or digitally recorded unless the court otherwise directs.
- (2) Unless the court otherwise directs —
  - (a) a party to the proceedings; and
  - (b) with the leave of the court, any person,may request a copy of the recording made under paragraph (1) to be supplied to them, on payment of the prescribed fee.

## **19 Disapplication of section 10(1) of the 2008 Act**

- (1) Section 10(1) (notice of proposal to adduce hearsay evidence) of the 2008 Act does not apply to proceedings in respect of —
  - (a) a mandatory police application;
  - (b) an external party application; or
  - (c) the variation or discharge of a DAPO made on an application mentioned in sub-paragraph (a) or (b).
- (2) The disapplication in paragraph (1) does not apply to any proceedings for the enforcement of a DAPO made on an application mentioned in that paragraph.

# **PART 5 – PROCEEDINGS**

## **20 The hearing of an application**

- (1) The court may give directions before or at the hearing of an application as to the order of any speeches and evidence.

- (2) The court must make its decision on the application as soon as reasonably practicable after the hearing.
- (3) Where the court refuses to make, vary or discharge a DAPO on an application, it must give notice of the refusal to each party.

## 21 DAPO proceedings

In relation to any proceedings in which an application is heard, or a DAPO is made, the court may make such directions as it thinks fit in order to ensure that it has all the information and evidence it requires to enable it to—

- (a) determine whether the conditions for making a DAPO specified in section 18 of the 2020 Act are satisfied; and
- (b) consider fully the matters to which it must have regard under sections 19 and 20 of the 2020 Act —
  - (i) before making a DAPO; or
  - (ii) before making a DAPO which contains a provision obliging a connected tenant to do, or to refrain from doing, something.

## PART 6 - ORDERS

### 22 Content of DAPO

- (1) A DAPO must specify —
  - (a) the requirements imposed by, or in consequence of, the DAPO on the person against whom it is made;
  - (b) the requirements imposed on a connected tenant by, or in consequence of, the DAPO (if applicable);
  - (c) the name, address and position of the person responsible for supervising compliance with any requirement imposed;
  - (d) the name and rank of any police officer designated in the DAPO;
  - (e) where the DAPO imposes an electronic monitoring requirement —
    - (i) the name and address of the person responsible for the monitoring; and
    - (ii) the requirements imposed by section 24(6) of the 2020 Act on the person against whom the DAPO is made;
  - (f) the period for which the DAPO has effect and the period for which any particular specified requirement has effect (if different);
  - (g) the locality to which the DAPO, or a requirement imposed by it, is limited, if this is the case; and

- (h) the notification requirements with which the person against whom the DAPO is made has to comply under sections 28 to 30 of the 2020 Act.
- (2) At the time when the DAPO is drawn up, the court officer must issue a copy of the DAPO endorsed with or incorporating a penal notice specifying the possible consequences of a failure to comply with the DAPO, for service in accordance with rule 24 (service of DAPO) on –
  - (a) the person against whom the DAPO is made; and
  - (b) any connected tenant named in the DAPO.

### **23 DAPO made without notice**

- (1) This rule applies where the court makes a DAPO without notice of proceedings being given to the person against whom the DAPO is made.
- (2) The court must fix a time, date and place for a hearing, to be held as soon as just and convenient, at which the person against whom the DAPO is made may make representations about the DAPO.
- (3) The DAPO must contain –
  - (a) the time, date and place for the hearing mentioned in paragraph (2); and
  - (b) a statement that the person against whom it is made may make a variation or discharge application under Part 7 (variation and discharge of DAPOs).

### **24 Service of DAPO**

- (1) Where a DAPO has been made on an application, the applicant must, as soon as reasonably practicable, serve on the person for whose protection the DAPO was made (if not the applicant), the respondent and any connected tenant named in the DAPO –
  - (a) a copy of the DAPO; and
  - (b) where the DAPO has been made without notice –
    - (i) a copy of the application together with any witness statement and other documents supporting it; and
    - (ii) a statement informing the recipient that the recipient may request from the court a copy of a recording of the hearing in connection with which the DAPO was made.
- (2) Where the court has made a DAPO without application, the court must as soon as reasonably practicable serve a copy of the DAPO on the parties to the proceedings in which the DAPO is made.

**25 Service of a DAPO on police and responsible persons**

- (1) Where the court makes a DAPO (whether with an application or without an application), a copy of the DAPO must be delivered as soon as reasonably practicable to —
  - (a) the police officer designated in the DAPO;
  - (b) the Chief Constable;
  - (c) the person mentioned in rule 22(1)(c) and, where applicable, rule 22(1)(e)(i) (content of DAPO) named in the DAPO; and
  - (d) any other person that the court directs.
- (2) A copy of the DAPO delivered under paragraph (1) must be accompanied by a statement showing that the person against whom the DAPO is made and, where applicable, the connected tenant has been served with the DAPO or informed of its terms (whether by being present when the DAPO was made or otherwise).
- (3) The documentation referred to in paragraphs (1) and (2) must be delivered by —
  - (a) the Coroner, where the DAPO was served by the Coroner under rule 24 (service of DAPO);
  - (b) the court, where the DAPO was served by the court under rule 24(2); or
  - (c) the applicant, in any other case.

**PART 7 – VARIATION AND DISCHARGE OF DAPOS****26 Application of Part**

This Part applies to the variation and discharge of a DAPO by the court under sections 32 and 33 of the 2020 Act.

**27 Requests for leave to apply for discharge or variation of a DAPO**

- (1) A person referred to in section 32(3)(e) of the 2020 Act may make a request to the court for leave to make a variation or discharge application by filing the request in the appropriate form, together with any supporting documentation.
- (2) A request for leave under this rule must —
  - (a) include the reasons why leave of the court is sought to make the variation or discharge application;
  - (b) include the name of any child on whose behalf the person is acting and if the person for whose protection the original DAPO was made or the person against whom the original DAPO was made has parental responsibility for that child; and



- (c) be verified by a statement of truth.
- (3) A request for leave under this rule must be included in the variation or discharge application for the making of which leave is sought, which will proceed only if leave is granted.

## **28 Variation or discharge applications: application with notice**

- (1) This rule applies to a variation or discharge application made with notice.
- (2) An application to which this rule applies may be made by a person specified in section 32(3) of the 2020 Act, or an Advocate acting on that person's behalf, by the person filing —
  - (a) the application in the appropriate form;
  - (b) all accompanying documentation; and
  - (c) copies of the application and accompanying documentation for service on—
    - (i) each person on whom the DAPO was served under rule 24 (service of DAPO); and
    - (ii) in the case of an application for variation of a DAPO, any connected tenant named in the application who was not served with the DAPO.
- (3) The application must be supported by a witness statement verified by a statement of truth.
- (4) Subject to paragraph (5), the application must be signed in accordance with rule 7(7) (making an application with notice: personal applications, external party applications and section 15(5) applications).
- (5) An application made by a police officer must be signed by the police officer and must indicate the police officer's rank.
- (6) Rules 7(3), (4) and (5) apply with any necessary modifications to an application made under this rule as they apply to an application under rule 7.
- (7) An application to which this rule applies (other than an application made by a police officer) must be accompanied by the prescribed fee.
- (8) On receipt of an application under this rule, the court officer must, as soon as reasonably practicable —
  - (a) fix a time, date and place for a hearing of the application allowing sufficient time for the service requirements in rule 30 (service of variation or discharge application) to be complied with;
  - (b) endorse the time, date and place fixed for the hearing on the copies of the application filed; and
  - (c) immediately return the copies of application and all accompanying documentation to the applicant.

**29 Variation of a DAPO: application without notice**

- (1) An application under section 32(6) of the 2020 Act to vary a DAPO without notice may be made by an applicant, or an advocate acting on the applicant's behalf, filing the application in the appropriate form.
- (2) Rules 7(3), (4) and (5) (making an application with notice: personal applications, external party applications and section 15(5) applications) apply with any necessary modifications to an application made under this rule as they apply to an application under rule 7.
- (3) An application made under this rule must —
  - (a) include the reasons why the applicant considers that the DAPO should be varied without notice;
  - (b) be supported by a witness statement verified by a statement of truth;
  - (c) be signed in accordance with rule 7(7); and
  - (d) (other than application made by a police officer) be accompanied by the prescribed fee.
- (4) The applicant should file 3 additional copies of an application made under this rule.
- (5) On receipt of an application under this rule, the court officer must as soon as reasonably practicable —
  - (a) fix a time, date and place for the hearing of the application;
  - (b) endorse the time, date and place fixed for the hearing on the copies of the application filed; and
  - (c) immediately return the copies of the application and accompanying documentation to the applicant.
- (6) The applicant must, as soon as reasonably practicable before the hearing, deliver —
  - (a) a copy of the application, endorsed in accordance with rule 29(5)(b); and
  - (b) all accompanying documentation,  
to the Chief Constable and any other person that the court directs.

**30 Service of variation or discharge application with notice**

- (1) On receipt of the copies of a variation or discharge application returned to the applicant under rule 28(8)(c) (variation or discharge applications: application with notice), the applicant must serve —
  - (a) a copy of the application, endorsed in accordance with rule 28(8)(b), together with any witness statement made in support; and
  - (b) all accompanying documentation,

on each person required under rule 28(2)(c) to be served at least 7 days before the date fixed for the hearing under rule 28(8)(c), or within such shorter period as the court may direct.

- (2) The applicant must file a certificate of service for each person served after serving a variation or discharge application.
- (3) In addition, the applicant must, within the time specified in paragraph (1), deliver —
  - (a) a copy of the application endorsed in accordance with rule 28(8)(b); and
  - (b) all accompanying documentation,to the Chief Constable and any other person that the court directs.

### **31 Answering a variation or discharge application**

- (1) A party to the proceedings for the DAPO regarding which a variation or discharge application has been made who has been served with that application may file an answer to the application in the appropriate form at any time up to the date before the date of the hearing of the application.
- (2) Any answer filed under paragraph (1) must be —
  - (a) served on the applicant and any other person served with the variation or discharge application under rule 30(1) (service of a variation or discharge application with notice) at the same time that it is filed; and
  - (b) delivered to the Chief Constable and any other person that the court directs as soon as reasonably practicable.
- (3) An answer may be supported by a witness statement verified by a statement of truth.
- (4) An answer must be verified by a statement of truth and signed —
  - (a) by the party making the answer, if the party makes the answer in person; or
  - (b) by an advocate acting for the party, and the advocate must, if acting as a member or employee of a firm, sign the application in the name of the firm.

### **32 Proceedings to vary or discharge a DAPO**

- (1) Parts 3 (case management) and 4 (evidence) and rule 20 (the hearing of an application) apply with any necessary modifications to proceedings in respect of a variation or discharge application under this Part as they apply to proceedings in respect of an application and a reference in those Parts to an “application” and an “answer” include a variation or discharge application and an answer to such an application.

- (2) Rules 21 (DAPO proceedings), 22 (content of DAPO) and 23 (DAPO made without notice) apply with any necessary modifications to the variation of a DAPO as they apply to the making of a DAPO.
- (3) Subject to section 32(6) of the 2020 Act (power to vary a DAPO without notice), the court must not exercise its power to vary or discharge a DAPO, or refuse to do so, unless each party to the proceedings, a police officer of or above the rank of inspector and any other person directly affected –
  - (a) is present; or
  - (b) has had an opportunity –
    - (i) to attend; or
    - (ii) to make representations.

### **33 Service of an order made under this Part**

- (1) Where a DAPO has been discharged or varied on an application under this Part, the applicant must, as soon as reasonably practicable, serve on the other parties to the application, the person for whose protection the DAPO was made (if not a party), any connected tenant named in the DAPO and any other person the court may direct –
  - (a) a copy of the order discharging or varying the DAPO (as the case may be); and
  - (b) where a DAPO has been varied without notice –
    - (i) a copy of the application to vary the DAPO, together with any witness statement and other documents supporting it; and
    - (ii) a statement informing the recipient that the recipient may request from the court a copy of a recording of the hearing in connection with which the DAPO was varied.
- (2) Where the court has varied or discharged a DAPO without application, the court must as soon as reasonably practicable serve a copy of the order discharging or varying the DAPO (as the case may be) on the parties to the proceedings in which the DAPO is varied or discharged.
- (3) On the variation or discharge of a DAPO, the court officer must –
  - (a) immediately inform the persons who received a copy of the DAPO under rule 25(1) (service of a DAPO on police and responsible persons); and
  - (b) deliver a copy of the order varying or discharging the DAPO to any person so informed.

## PART 8 – ENFORCEMENT

### 34 Interpretation: Part 8

In this Part –

“**relevant judge**” has the meaning given in paragraph (c) of that definition in section 27(2) of the 2020 Act; and

“**section 27 application**” means an application under section 27(3) of the 2020 Act for the issue of a warrant for the arrest of a person for failure to comply with a DAPO.

### 35 Request for leave to apply for a warrant of arrest

- (1) A person seeking leave, under section 27(4)(c) of the 2020 Act, to make a section 27 application may make a request to the relevant judge for leave to make the application by filing the request in the appropriate form, together with any supporting documentation.
- (2) A request for leave under this rule must –
  - (a) include the reasons why leave of the relevant judge is sought to make the section 27 application; and
  - (b) be verified by a statement of truth.
- (3) A request for leave under this rule must be included in the section 27 application for the making of which leave is sought, which will proceed only if leave is granted.

### 36 Application for warrant of arrest

- (1) A section 27 application must be made in the appropriate form and substantiated on oath.
- (2) A section 27 application must –
  - (a) include details of the reasons why the applicant considers that a person has failed to comply with the DAPO; and
  - (b) enclose a copy of the DAPO.
- (3) Any warrant issued on a section 27 application must be delivered by the court officer to the Chief Constable.

### 37 Proceedings following arrest

- (1) If a person is brought before the court following the person’s arrest under a warrant issued by the court on a section 27 application, the court may –
  - (a) determine whether the facts, and the circumstances which led to the arrest amounted to a failure to comply with the DAPO by the person; or

- (b) adjourn the proceedings.
- (2) Where the proceedings are adjourned and the arrested person is released —
  - (a) unless the court otherwise directs, the matter must be dealt with within 14 days beginning with the date of arrest; and
  - (b) the arrested person must be given not less than 2 days' notice of the hearing.

### 38 Bail applications

- (1) A person arrested under a warrant issued by the court on a section 27 application may make an application for bail either orally or in writing.
- (2) Where a bail application is made in writing, it must be filed with the court and must contain the following particulars —
  - (a) the full name of the person making the application;
  - (b) the address of the place where the person making the application is detained at the time when the application is made;
  - (c) the address of the place where the person making the application would reside if granted bail;
  - (d) the amount of the recognisance in which the person would agree to be bound;
  - (e) the grounds on which the application is made and, where a previous application has been refused, full particulars of any change in circumstances which has occurred since that refusal.
- (3) A bail application made in writing must be signed by —
  - (a) the person making the application; or
  - (b) a person authorised to sign the application on the person's behalf.
- (4) A bail application made in writing must be served by the person making it on —
  - (a) the person who made the section 27 application to which it relates; and
  - (b) any other person that the court directs.

### 39 Recognisances

- (1) Where, in accordance with paragraph 2(3)(b) of the Schedule to the 2020 Act, the court fixes the amount of any recognisance with a view to it being taken subsequently, the recognisance may be taken by —
  - (a) the High Bailiff or a justice;
  - (b) a police officer of or above the rank of inspector; or

- (c) the governor or keeper of a prison or place of detention where the arrested person is in custody.
- (2) The person having custody of an applicant for bail must release that applicant if satisfied that the required recognisances have been taken.

## **PART 9 – GENERAL AND SUPPLEMENTARY**

### **40 Service of documents: general**

- (1) Where these Rules specify that a document is to be served personally, it is served by delivering it to the person to whom it is directed.
- (2) Where a person is required under these Rules to file or serve a document, the filing or service may be effected on that person's behalf by that person's advocate.
- (3) Despite rules 41 and 42, the court may direct the method by which a document is to be served.

### **41 Service of documents: section 15(5) applications**

- (1) This rule applies to documents served in proceedings in respect of a section 15(5) application.
- (2) Subject to rule 40 and any other contrary provision in these Rules, rule 20 of the Summary Jurisdiction Rules 2002<sup>1</sup> applies with any necessary modifications to the service of documents in connection with proceedings to which this rule applies.
- (3) In the case of a section 15(5) application, service may be effected by the coroner.

### **42 Service of documents: applications other than section 15(5) applications**

- (1) This rule applies to documents served in proceedings in respect of an application other than a section 15(5) application.
- (2) Subject to rule 40 and any other contrary provision in these Rules, a document is served if it is served by one of the methods provided for service in section 80(1) of the 1989 Act.
- (3) A document (apart from a document that must be served personally) required to be served under these Rules may, if it is known by the person serving it that the person to be served is represented by an advocate, be served on the advocate by –
  - (a) delivering it at, or sending it by post to, the advocate's address for service; or

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<sup>1</sup> SD 733/02.

- (b) by sending a legible copy of the document to the advocate by email or other method of electronic transmission with the advocate's prior agreement.
- (4) Where a person under 18 years old who is a party to any proceedings is required under these Rules to serve a document, service may be effected by —
  - (a) that person's advocate; or
  - (b) where there is no advocate for that person, the court.
- (5) Service of a document on any person under 18 years old must, unless the court otherwise directs, be effected by service on —
  - (a) the advocate acting for that person; or
  - (b) where there is no advocate for that person, with the leave of the court, that person.
- (6) In the case of —
  - (a) a personal application; or
  - (b) a variation or discharge application where the applicant is the person for whose protection the original DAPO was made,if the applicant is acting in person, service may be effected by the coroner.
- (7) Service of a document in proceedings to which these Rules apply may be proved in accordance with section 80(5) of the 1989 Act.
- (8) Despite the provisions of this rule, a mandatory police application is treated as having been served on the respondent or a connected tenant if it has been left at the address given by the respondent or the connected tenant under section 10(5) of the 2020 Act on the serving of a DAPN on the respondent or the connected tenant.
- (9) If a mandatory police application has not been served because the respondent or the connected tenant did not give an address under section 10(5) of the 2020 Act on being served with a DAPN, the court may hear the application if a police officer satisfies the court, by oral evidence or production of a signed statement verified by a statement of truth, that the officer has made reasonable efforts to serve the respondent or the connected tenant with the application.

### 43 Court documents

- (1) Except as provided by this rule, no document or copy of a document filed or lodged in the court office in connection with proceedings to which these Rules apply is open to inspection by any person without the leave of the Chief Registrar or the court, and no copy of such document or copy may be taken by, or issued to, any person without such leave.
- (2) A copy of an order made in open court will be issued to any person who requests it.



- (3) Subject to rule 7(5) (making an application with notice: personal applications, external party applications and section 15(5) applications) and to any direction given by the court —
- (a) a party to proceedings to which these Rules apply;
  - (b) the advocate for such a party; or
  - (c) the certifying officer,
- may inspect and obtain a copy of any document or copy of a document filed or lodged in the court office in those proceedings.
- (4) In this rule, “certifying officer” has the meaning given in regulation 1(2) of the Legal Aid (General) Regulations 1997<sup>2</sup>.

**MADE 19 JANUARY 2023**

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<sup>2</sup> SD 144/97, which has been amended by SD 208/99, SD 108/08, SD 2014/0281 and SD 2014/0283.

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.