

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

NOTIFICATION

New Delhi, the 17th October, 2006

G.S.R. 644(E).—In exercise of the powers conferred by section 37 of the Protection of Women from Domestic Violence Act, 2005 (43 of 2005), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.— (1) These rules may be called the Protection of Women from Domestic Violence Rules, 2006.

(2) They shall come into force on the 26th day of October, 2006.

2. Definitions.— In these rules, unless the context otherwise requires, —

(a) "Act" means the Protection of Women from Domestic Violence Act, 2005 (43 of 2005);

(b) "complaint" means any allegation made orally or in writing by any person to the Protection Officer;

(c) "Counsellor" means a member of a service provider competent to give counselling under sub-section (1) of section 14;

(d) "Form" means a form appended to these rules;

(e) "section" means a section of the Act;

(f) words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Qualifications and experience of Protection Officers.— (1) The Protection Officers appointed by the State Government may be of the Government or members of non-governmental organizations;

Provided that preference shall be given to women.

(2) Every person appointed as Protection Officer under the Act shall have at least three years experience in social sector.

(3) The tenure of a Protection Officer shall be a minimum period of three years.

(4) The State Government shall provide necessary office assistance to the Protection Officer for the efficient discharge of his or her functions under the Act and these rules.

4. Information to Protection Officers.— (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed may give information about it to the Protection Officer having jurisdiction in the area either orally or in writing.

(2) In case the information is given to the Protection Officer under sub-rule (1) orally, he or she shall cause it to be reduced to in writing and shall ensure that the same is signed by the person giving such information and in case the informant is not in a position to furnish written information the Protection Officer shall satisfy and keep a record of the identity of the person giving such information.

(3) The Protection Officer shall give a copy of the information recorded by him immediately to the informant free of cost.

5. Domestic incident reports.— (1) Upon receipt of a complaint of domestic violence, the Protection Officer shall prepare a domestic incident report in Form I and submit the same to the Magistrate and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction of which the domestic violence alleged to have been committed has taken place and to the service providers in that area.

(2) Upon a request of any aggrieved person, a service provider may record a domestic incident report in Form I and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence is alleged to have taken place.

6. Applications to the Magistrate.— (1) Every application of the aggrieved person under section 12 shall be in Form II or as nearly as possible thereto.

(2) An aggrieved person may seek the assistance of the Protection Officer in preparing her application under sub-rule (1) and forwarding the same to the concerned Magistrate.

(3) In case the aggrieved person is illiterate, the Protection Officer shall read over the application and explain to her the contents thereof.

(4) The affidavit to be filed under sub-section (2) of section 23 shall be filed in **Form III**.

(5) The applications under section 12 shall be dealt with and the orders enforced in the same manner laid down under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974).

7. Affidavit for obtaining *ex-parte* orders of Magistrate.— Every affidavit for obtaining *ex-parte* order under sub-section (2) of section 23 shall be filed in **Form III**.

8. Duties and functions of Protection Officers.— (1) It shall be the duty of the Protection Officer —

- (i) to assist the aggrieved person in making a complaint under the Act, if the aggrieved person so desires;
- (ii) to provide her information on the rights of aggrieved persons under the Act as given in **Form IV** which shall be in English or in a vernacular local language;
- (iii) to assist the person in making any application under section 12, or sub-section (2) of section 23 or any other provision of the Act or the rules made thereunder;
- (iv) to prepare a “Safety Plan” including measures to prevent further domestic violence to the aggrieved person, in consultation with the aggrieved person in **Form V**, after making an assessment of the dangers involved in the situation and on an application being moved under section 12;
- (v) to provide legal aid to the aggrieved person, through the State Legal Aid Services Authority;

- (vi) to assist the aggrieved person and any child in obtaining medical aid at a medical facility including providing transportation to get the medical facility;
- (vii) to assist in obtaining transportation for the aggrieved person and any child to the shelter;
- (viii) to inform the service providers registered under the Act that their services may be required in the proceedings under the Act and to invite applications from service providers seeking particulars of their members to be appointed as Counsellors in proceedings under the Act under sub-section (1) of section 14 or Welfare Experts under section 15;
- (ix) to scrutinise the applications for appointment as Counsellors and forward a list of available Counsellors to the Magistrate;
- (x) to revise once in three years the list of available Counsellors by inviting fresh applications and forward a revised list of Counsellors on the basis thereof to the concerned Magistrate;
- (xi) to maintain a record and copies of the report and documents forwarded under sections 9, 12, 20, 21, 22, 23 or any other provisions of the Act or these rules;
- (xii) to provide all possible assistance to the aggrieved person and the children to ensure that the aggrieved person is not victimized or pressurized as a consequence of reporting the incidence of domestic violence;
- (xiii) to liaise between the aggrieved person or persons, police and service provider in the manner provided under the Act and these rules;
- (xiv) to maintain proper records of the service providers, medical facility and shelter homes in the area of his jurisdiction.

(2) In addition to the duties and functions assigned to a Protection Officer under clauses (a) to (h) of sub-section (1) of section 9, it shall be the duty of every Protection Officer—

(a) to protect the aggrieved persons from domestic violence, in accordance with the provisions of the Act and these rules;

(b) to take all reasonable measures to prevent recurrence of domestic violence against the aggrieved person, in accordance with the provisions of the Act and these rules.

9. Action to be taken in cases of emergency.— If the Protection Officer or a service provider receives reliable information through e-mail or a telephone call or the like either from the aggrieved person or from any person who has reason to believe that an act of domestic violence is being or is likely to be committed and in a such an emergency situation, the Protection Officer or the service provider, as the case may be, shall seek immediate assistance of the police who shall accompany the Protection Officer or the service provider, as the case may be, to the place of occurrence and record the domestic incident report and present the same to the Magistrate without any delay for seeking appropriate orders under the Act.

10. Certain other duties of the Protection Officers.— (1) The Protection Officer, if directed to do so in writing, by the Magistrate shall—

(a) conduct a home visit of the shared household premises and make preliminary enquiry if the court requires clarification, in regard to granting *ex-parte* interim relief to the aggrieved person under the Act and pass an order for such home visit;

(b) after making appropriate inquiry, file a report on the emoluments, assets, bank accounts or any other documents as may be directed by the court;

(c) restore the possession of the personal effects including gifts and jewellery of the aggrieved person and the shared household to the aggrieved person;

(d) assist the aggrieved person to regain custody of children and secure rights to visit them under his supervision as may be directed by the court.

(e) assist the court in enforcement of orders in the proceedings under the Act in the manner directed by the Magistrate, including orders under section 12, section 18, section 19, section 20, section 21 or section 23 in such manner as may be directed by the court.

(f) take the assistance of the police, if required, in confiscating any weapon involved in the alleged domestic violence.

(2) The Protection Officer shall also perform such other duties as may be assigned to him by the State Government or the Magistrate in giving effect to the provisions of the Act and these rules from time to time.

(3) The Magistrate may, in addition to the orders for effective relief in any case, also issue directions relating general practice for better handling of the cases, to the Protection Officers within his jurisdiction and the Protection Officers shall be bound to carry out the same.

11. Registration of service providers.— (1) Any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance and desirous of providing service as a service provider under the Act shall make an application under sub-section (1) of section 10 for registration as service provider in Form VI to the State Government.

(2) The State Government shall, after making such enquiry as it may consider necessary and after satisfying itself about the suitability of the applicant, register it as a service provider and issue a certificate of such registration:

Provided that no such application shall be rejected without giving the applicant an opportunity of being heard.

(3) Every association or company seeking registration under sub-section (1) of section 10 shall possess the following eligibility criteria, namely:—

(a) It should have been rendering the kind of services it is offering under the Act for at least three years before the date of application for registration under the Act and these rules as a service provider.

(b) In case an applicant for registration is running a medical facility, or a psychiatric counseling centre, or a vocational training institution, the State Government shall ensure that the applicant fulfils the requirements for running such a facility or institution laid down by the respective regulatory authorities regulating the respective professions or institutions.

(c) In case an applicant for registration is running a shelter home, the State Government shall, through an officer or any authority or agency authorised by it, inspect the shelter home, prepare a report and record its finding on the report, detailing that –

(i) the maximum capacity of such shelter home for intake of persons seeking shelter;

(ii) the place is secure for running a shelter home for women and that adequate security arrangements can be put in place for the shelter home;

(iii) the shelter home has a record of maintaining a functional telephone connection or other communication media for the use of the inmates;

(3) The State Government shall provide a list of service providers in the various localities to the concerned Protection Officers and also publish such list of newspapers or on its website.

(4) The Protection Officer shall maintain proper records by way of maintenance of registers duly indexed, containing the details of the service providers.

12. Means of service of notices. – (1) The notices for appearance in respect of the proceedings under the Act shall contain the names of the person alleged to have committed

domestic violence, the nature of domestic violence and such other details which may facilitate the identification of person concerned.

(2) The service of notices shall be made in the following manner, namely: —

(a) The notices in respect of the proceedings under the Act shall be served by the Protection Officer or any other person directed by him to serve the notice, on behalf of the Protection Officer, at the address where the respondent is stated to be ordinarily residing in India by the complainant or aggrieved person or where the respondent is stated to be gainfully employed by the complainant or aggrieved person, as the case may be.

(b) The notice shall be delivered to any person in charge of such place at the moment and in case of such delivery not being possible it shall be pasted at a conspicuous place on the premises.

(c) For serving the notices under section 13 or any other provision of the Act, the provisions under Order V of the Civil Procedure Code, 1908 (5 of 1908) or the provisions under Chapter VI of the Code of Criminal Procedure, 1973 (2 of 1974) as far as practicable may be adopted.

(d) Any order passed for such service of notices shall entail the same consequences, as an order passed under Order V of the Civil Procedure Code, 1908 or Chapter VI of the Code of Criminal Procedure, 1973 respectively, depending upon the procedure found efficacious for making an order for such service under section 13 or any other provision of the Act and in addition to the procedure prescribed under the Order V or Chapter VI, the court may direct any other steps necessary with a view to expediting the proceedings to adhere to the time limit provided in the Act

(3) On a statement on the date fixed for appearance of the respondent, or a report of the person authorized to serve the notices under the Act, that service has been effected appropriate orders shall be passed by the court on any pending application for interim relief, after hearing the complainant or the respondent, or both.

(4) When a protection order is passed restraining the respondent from entering the shared household or the respondent is ordered to stay away or not to contact the petitioner, no action of the aggrieved person including an invitation by the aggrieved person shall be considered as waiving the restraint imposed on the respondent, by the order of the court, unless such protection order is duly modified in accordance with the provisions of sub-section (2) of section 25.

13. Appointment of Counselors.— (1) A person from the list of available Counsellors forwarded by the Protection Officer, shall be appointed as a Counsellor, under intimation to the aggrieved person.

(2) The following persons shall not be eligible to be appointed as Counselors in any proceedings, namely:—

(i) any person who is interested or connected with the subject matter of the dispute or is related to any one of the parties or to those who represent them unless such objection is waived by all the parties in writing.

(ii) any legal practitioner who has appeared for the respondent in the case or any other suit or proceedings connected therewith.

(3) The Counsellors shall as far as possible be women.

14. Procedure to be followed by Counsellors.— (1) The Counsellor shall work under the general supervision of the court or the Protection Officer or both:

(2) The Counsellor shall convene a meeting at a place convenient to the aggrieved person or both the parties.

(3) The factors warranting counselling shall include the factor that the respondent shall furnish an undertaking that he would refrain from causing such domestic violence as complained by the complainant and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, electronic mail or through

any medium except in the counselling proceedings before the counselor or as permissibly by law or order of a court of competent jurisdiction.

(4) The Counsellor shall conduct the counseling proceedings bearing in mind that the counseling shall be in the nature of getting an assurance, that the incidence of domestic violence shall not get repeated.

(5) The respondent shall not be allowed to plead any counter justification for the alleged act of domestic violence in counseling the fact that and any justification for the act of domestic violence by the respondent is not allowed to be a part of the Counselling proceeding should be made known to the respondent, before the proceedings begin.

(6) The respondent shall furnish an undertaking to the Counsellor that he would refrain from causing such domestic violence as complained by the aggrieved person and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, e-mail, or through any other medium except in the counseling proceedings before the Counsellor.

(7) If the aggrieved person so desires, the Counsellor shall make efforts of arriving at a settlement of the matter.

(8) The limited scope of the efforts of the Counsellor shall be to arrive at the understanding of the grievances of the aggrieved person and the best possible redressal of her grievances and the efforts shall be to focus on evolving remedies or measures for such redressal.

(9) The Counsellor shall strive to arrive at a settlement of the dispute by suggesting measures for redressal of grievances of the aggrieved person by taking into account the measures or remedies suggested by the parties for counseling and reformulating the terms for the settlement, wherever required.

(10) The Counsellor shall not be bound by the provisions of the Indian Evidence Act, 1872 or the Code of Civil Procedure, 1908, or the Code of Criminal Procedure, 1973, and his action shall be guided by the principles of fairness and justice and aimed at finding way to bring an end to domestic violence to the satisfaction of the aggrieved person and in making such an effort the Counselor shall give due regard to the wishes and sensibilities of the aggrieved person.

(11) The Counsellor shall submit his report to the Magistrate as expeditiously as possible for appropriate action.

(12) In the event the Counsellor arrives at a resolution of the dispute, he shall record the terms of settlement and get the same endorsed by the parties.

(13) The court may, on being satisfied about the efficacy of the solution and after making a preliminary enquiry from the parties and after, recording reasons for such satisfaction, which may include undertaking by the respondents to refrain from repeating acts of domestic violence, admitted to have been committed by the respondents, accept the terms with or without conditions.

(14) The court shall, on being so satisfied with the report of counseling, pass an order, recording the terms of the settlement or an order modifying the terms of the settlement on being so requested by the aggrieved person, with the consent of the parties.

(15) In cases, where a settlement cannot be arrived at in the counselling proceedings, the Counsellor shall report the failure of such proceedings to the Court and the court shall proceed with the case in accordance with the provisions of the Act.

(16) The record of proceedings shall not be deemed to be material on record in the case on the basis of which any inference may be drawn or an order may be passed solely based on it.

(17) The Court shall pass an order under section 25, only after being satisfied that the application for such an order is not vitiated by force, fraud or coercion or any other factor and the reasons for such satisfaction shall be recorded in writing in the order, which may include any undertaking or surety given by the respondent.

15. Breach of Protection Orders.— (1) An aggrieved person may report a breach of protection order or an interim protection order to the Protection Officer.

(2) Every report referred to in sub-rule (1) shall be in writing by the informant and duly signed by her.

(3) The Protection Officer shall forward a copy of such complaint with a copy of the protection order of which a breach is alleged to have taken place to the concerned Magistrate for appropriate orders.

(4) The aggrieved person may, if she so desires, make a complaint of breach of protection order or interim protection order directly to the Magistrate or the Police, if she so chooses.

(5) If, at any time after a protection order has been breached, the aggrieved person seeks his assistance, the protection officer shall immediately rescue her by seeking help from the local police station and assist the aggrieved person to lodge a report to the local police authorities in appropriate cases.

(6) When charges are framed under section 31 or in respect of offences under section 498A of the Indian Penal Code, 1860 (45 of 1860), or any other offence not summarily triable, the Court may separate the proceedings for such offences to be tried in the manner prescribed under Code of Criminal Procedure, 1973 (2 of 1974) and proceed to summarily try the offence of the breach of Protection Order under section 31, in accordance with the provisions of Chapter XXI of the Code of Criminal Procedure, 1973 (2 of 1974).

(7) Any resistance to the enforcement of the orders of the Court under the Act by the respondent or any other person purportedly acting on his behalf shall be deemed to be a breach of protection order or an interim protection order covered under the Act.