

Family Violence is defined as occurring when any of the following is committed by a spouse or common-law partner against the other, any child in the charge of either, or any other person who lives in the family home:

- (a) an intentional application of force without lawful authority or consent, excluding any act committed in self-defence;
- (b) an intentional or reckless act or omission that causes bodily harm or damage to property;

## Emergency Protection Orders

*Emergency Protection Orders are short term, temporary orders to help protect victims (band members and non-band members) of family violence. This pamphlet outlines information about Emergency Protection Orders under the matrimonial real property laws in Bear River, Millbrook, Paqtneq, Pictou Landing and Sipekne'katik communities.*

*An Emergency Protection Order ("EPO") is not right for everyone. It is a good idea to check with your local police, transition house, health care professionals, social workers or victim services office to talk about applying for an EPO and to make safety plans for yourself and your children.*

- (c) an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or damage to property;
- (d) sexual assault, sexual abuse or the threat of either;
- (e) forcible confinement without lawful authority; or
- (f) criminal harassment, as defined in the Criminal Code.

### 1. Who can apply for an Emergency Protection Order?

A spouse or common law partner can apply for an EPO on their own behalf, or on behalf of a child in their care or another person who lives in the family home.

A common law partner includes persons living together in a marriage like relationship for at least one (1) year, and persons in an marriage like relationship that have a child (biological or adopted) together.

A Designated Person can also apply for an EPO on behalf of the spouse or common

law partner with their consent, or if the designated judge allows, they can apply without the person's consent. Designated Persons are:

- peace officers, such as the police
- health care professionals, such as nurses and doctors

### 2. Where do I apply for an Emergency Protection Order (EPO)?

You can apply for an EPO by contacting your local police service at any time (i.e. RCMP) and they can assist you. **You can also apply anywhere in Nova Scotia by phoning**

**1-866-816-6555, any day between 9 am and 9 pm.** You do not have to complete any paperwork to apply for an EPO.

After you apply, it is a designated judge that will determine if an EPO will be granted or not.

### 3. When will a Designated Judge grant an Emergency Protection Order?

An EPO is granted only if a designated judge is satisfied that:

- family violence has occurred (see introduction)

• the situation is serious and urgent

The designated judge must look at many factors in the law; for instance:

- nature and history of the family violence
- existence of immediate danger
- best interests of the victim, any child or other person in the victim's care, including elderly or disabled person.

If you apply for an EPO and it is not granted, you may still apply for one again if something else happens.

#### 4. What can an Emergency Protection Order do?

An EPO can give a victim exclusive occupation of the home for up to 30 days and require the other person (respondent) to stay away from the home and specific persons during that time.

An EPO can direct a peace officer to:

- remove the respondent from the home
- accompany the victim or respondent to the home to supervise removal of personal belongings

The EPO can also direct the respondent:

- to stay away from any other place identified in the order, such as a workplace
- not to contact the victim or another person
- not to take, sell, or damage property
- not to commit any further acts of violence against the victim

The EPO can also prohibit the victims' name and address from becoming public record.

#### 5. What are the offences under the community matrimonial real property laws?

If an EPO is granted, it is an offence for anyone to:

- fail to comply with the provisions of the EPO

- obstruct any person who is performing any function authorized by the EPO
- publish any information that violates

#### 6. Does an Emergency Protection Order go on the person's criminal record?

No. An EPO is not a criminal charge, and does not show up on the respondent's criminal record. However, if the person breaches the EPO (violates one of the terms in it), they may then be criminally charged with the breach.

#### 7. Can the respondent change the Emergency Protection Order?

A Justice of the Supreme Court of Nova Scotia will review each EPO within three working days of it being granted.

If, based on the information on hand, the Justice finds the EPO was correctly granted, then the Court will issue an Order supporting the EPO and it will continue to be in force for the remainder of the 30 days.

If the Justice requires more information, then the Justice will order a hearing. Both you and the respondent will be asked to attend the hearing and will be given the opportunity to state your case to the Justice. The Justice will then determine whether the EPO should continue to be in force, be extended or cancelled.

#### 8. Can an Emergency Protection Order be cancelled?

An EPO can only be cancelled by a Justice of the Supreme Court of Nova Scotia. The victim, designated person or respondent CANNOT cancel the EPO. However, the EPO will naturally expire at the end of 30 days or when the Court directs.

#### 9. What role does the Band Council have in an Emergency Protection Order?

The Band Council does not have a role in the EPO process.

If an EPO is granted, then a copy of that EPO must be provided to the Band Council. The sole purpose of the Band Council receiving a copy is so it is aware of who is and who is not allowed at a specific residence or area on its reserve lands.

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***This pamphlet provides information only and is not considered legal advice.***



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