

Domestic violence is a criminal offence. Any person who commits domestic violence can be punishable on conviction of up to 5 years or a fine not exceeding 100,000



Port Vila : PMB 9041,
26715 / 22420

Isangel, Tanna : 33903
Lakatoro, Malekula : 48423
Luganville, Santo : 36457

OPENING HOURS
7:30 am— 11:30 am
1:30 pm— 4:30 pm

This brochure is authorised by the Chief Justice of the Republic of Vanuatu and produced by the Supreme Court.

Note: The information contained in this brochure is intended as a guide for all court users, in particular, the unrepresented litigants.

This brochure is current as at 30 June 2020.

Court Website : <http://courts.gov.vu> or
<http://judiciary.gov.vu>

FAMILY PROTECTION ORDER



**If you are a
victim of
Domestic
violence you
can apply for a
Protection
Order**



Domestic violence is any of the following acts done against a family member:

- assaults the family member (whether or not there is any visible injury);
- psychologically abuses, harasses or intimidates the family member;
- sexually abuses the family member;
- following the family member so as to cause him or her fear;
- behaves in an indecent or offensive manner to the family member;
- damages or causes damage to the family member's property;
- threatens to do any of the acts mentioned above.

What is a Domestic Violence Protection Order?

It is an order of the court to stop threats or other acts of domestic violence. This order ensures that the complainant is kept safe by making it illegal for the defendant to act in certain ways.

Where can I apply for a Protection Order?

Directly with the Magistrate's Court, Island Court, the Police, or an Authorised person

Who can apply for a Protection Order?

- The victim

With consent from the victim the following persons can also apply.

- A relative or friend of the victim
- A lawyer ; or
- A police officer

How soon will I get the Order?

Orders are issued immediately by the magistrate so you leave with an order.

How do I make an Application for an Order?

- (a) Writing your complaint and filing it with the magistrate's Court, or
- (b) In person at the Magistrate's Court or the police station
 - By calling on the telephone
 - By videoconference
 - By letter to the court
 - By email to the court

What happens at the hearing?

Your application will be heard urgently before the magistrate without the defendant present.

How is the defendant notified of the order?

- The order will be served directly on the Defendant.
- The order is served by the police or any person who can do it. A copy is given to the police department.
- A proof of service is to be filed in court to prove service of the order on the Defendant.
- Orders are to be served on the Defendant in order to be effective.

What happens if the order is broken?

You call the police to arrest the defendant and he will be brought before the Magistrate.

What can I do if I am not satisfied with the outcome of my hearing?

You may appeal to the Supreme Court within 28 days of the order being made.

Every child must be supported both financially and educationally by his/her parents. If you do not support your child you can be fined up to 1500vt or sent to prison for up to 3 months.



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ISLAND COURT

CLAIM FOR CHILD MAINTENANCE

What is child maintenance?

It is parents supporting their children financially and educationally.

Who is eligible to apply to the court?

The woman/ mother of the child is eligible to apply. She can be unmarried or married.

When can I apply?

An application can be made at any time within 12 months from the child's birth or the court may accept the application after 12 months if there is a good reason.

Do I have to pay a fee to file a maintenance application?

Yes. The court fee is 1,000vt.
To enforce the court's order is also 1,000vt.

What must be proofed in the court?

- That during the time of pregnancy there was an offer of marriage and they had been living together as husband and wife
- That the alleged father of the child had at some time provided for the child in a paternal capacity.

**What happens after the application is filed?**

A court notice will be served on you and the father giving the date and time to come to court for the hearing of the application.

What happens at the hearing?

- Your application will be heard before the justices with the defendant present.
- The mother will give her side of the story, present her evidence and call her witnesses if she has any.
 - The father will give his side of the story, present his evidence and call his witnesses if he has any.
 - Both you and the father can ask each other and the witnesses' questions.
 - After hearing all the evidence the Justices will give a decision.
 - The party who has won may ask for repayment of their expenses.

What is the power of the court?

If the court finds enough evidence that the defendant is the father of the child, the court may make orders in favour of the mother for the father to maintain the child financially or in kind until the child reaches 18 years of age.

What can I do if I am not satisfied with the court decision?

If you are not satisfied with the judgment you may appeal to the Magistrate Court within 28 days from the date of the decision.

What happens if the father does not comply with the court decision?

The mother may apply to the same Island court and request enforcement of the court's decision. The application can be in writing or made orally during the court hearing.

At that time the court may fine the father 1500 vatu, if it is the second time he is disobeying the order he can be sent to prison for 3 months.

All Parties in a case must help the courts to deal with cases fairly.



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ISLAND COURT

CIVIL PROCEEDINGS GUIDE

What is the power of the Island Court?

The Island Court has the power to hear:

- Cases value at 50,000 Vatu or less,
- Child Maintenance
- Family Maintenance
- Customary Issues and Applications
- Debt Cases

How do I bring my case to the court?

You will file a claim in the Island Court in the location where you live or where the event happened the claim is a document that says what your problem is what the other person has done to you and what you want from the court.

What do you do when you receive a claim?

If you do not agree with the claim you must file in the office of the Island Court where the claim was filed a statement of defence at least 7 days before the hearing date.

What if the claimant has done something to me?

You can file a counterclaim together with your defence saying what the claimant has done to you and what you are asking the claimant for.



How much does it cost to file a claim and a counterclaim?

It costs VT1, 000 to file a claim and VT1, 000 to file a counter claim.

What happens if the parties do not appear in court?

The court may issue a summons for the attendance of the parties or strike out their case and/ or enter a default judgement for the party present in court.

What can I do if I think the defendant doesn't have a strong case?

If you think that the defence is not strong, you can make an application to the court to ask the court to strike out the defence and give you judgement

What happens after the claim is filed?

The defendant and claimant will come to court on the day stated in the claim for the first hearing and the Court will say what's going to happen next.

What happens at the Hearing of the case?

- The Clerk will read the claim to the claimant and the Justices of the Island Court.
- The Claimant may continue with his side of the story, present his evidence and call his witness
- The defendant will give his side of the story, present his evidence and call his witnesses if he has any.
- Both you and the defendant can ask each other and the witnesses' questions.
- After hearing all the evidence the Court will give a judgment.
- The party who has won may ask for repayment of their expenses.

What can I do if I am not happy with the judgment?

If you are not happy with the judgment you may appeal to the Magistrate's Court within 30 days from the date of the judgement.

What happens if the defendant does not comply with the court decision?

The complainant may apply to the same Island court and request court enforcement on the decision made. The application can be in writing or made orally during the court hearing.

of any property damaged by you.

Who will be present in Court?

- Island Court Justices

3 Justices who will decide your case

- Clerk

The clerk is the person who helps the Justices during a case

- The Public Prosecutor

The prosecutor is the police who have charged you.

Witnesses:

The witnesses are the persons who come to give their side story for the prosecutor and for you.

What can I do if I am not happy with the decision of the court?

If you are not happy with the decision you can appeal to the Magistrate Court within 14 days from the date of the decision.



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ISLAND COURT

CRIMINAL PROCEEDING GUIDE

What is a crime?

- A crime is when you break the law and you can be punished by the court.

What is the power of the Island Court in criminal cases?

- The Island Court has the power to deal with small criminal cases where the punishment is less than 6 months or a fine of 24,000vt
- Example:
 - Stealing or theft; taking something from another person without their permission, with the intention of not returning it.
 - Abusive Language- saying a bad word to another person
 - Fighting with someone and causing small injuries on the other person's body.

What is a charge?

- A charge is a document that states the crime you are accused of committing.

Do I need a lawyer?

- You do not need a lawyer but you can ask a lawyer for legal advice before coming to court.

How do I come to court?

- Summons/Notice
- A court summons or notice tells you the day and the time to come to court



•Warrant of arrest

The police can arrest you and bring you to court

How does a case start?

On the date and time of hearing of your case, the court will ask you whether you plead guilty or not guilty.

What happen if I plead guilty?

If you plead guilty at the beginning of your case or during the hearing of your case the court will give you a punishment.

What happen if I plead not guilty?

If you plead not guilty, the court will set a date and time to hear your case

What happens at the hearing of your case?

- The prosecutor will bring witnesses who will give their side of the story against you in order to prove to the Lay

Justices that you should be found guilty. You can also ask the witnesses questions.

- The Justices will allow you to present your witnesses to help you prove you are not guilty. The Prosecutor can also ask your witnesses questions.

- If the prosecutor does not prove that you are guilty the court will say that you are free to go.

- If the Prosecutor proves you are guilty then the court will punish you.

What type of punishment can the court give?

- Fine: The court can order you to pay money to the state instead of going to prison
- Imprisonment: The Court can send you to prison.
- Non-Custodial punishment: The court will not send you to prison but it will give you strict rules to follow.
- Community sentence: The Court can order you to do community work.
- Compensation: The court will make you pay money to your victim.
- Restitution: The court can order you to refund the victim of your crime the value

Parties to a proceeding must help the courts
to deal with cases justly.



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MAGISTRATES COURT

CIVIL PROCEEDINGS GUIDE

1) What is the power of the Magistrates Court?

The Magistrates Court has the power to hear:

- Cases for 1,000,000 Vatu or less,
- Cases between landlord and tenant if the claim is not above 2,000,000 Vatu,
- Divorces,
- Domestic Violence Protection Orders, and
- Restraining Orders

2) How do I bring my problem to the court?

You will file a claim in the court which is a document saying what your problem is, what the other person has done to you and what you want from the court.

3) What do you do when you receive a claim?

You will have 28 days from the date you receive the claim to file a document called a defence in which you will answer every point in the claim and give your side of the story.

4) What if the claimant has done something to me?

You can file a counterclaim together with your defence saying what the claimant has done to you and what you are asking the claimant for.



5) How much does it cost to file a claim and a counterclaim?

It costs VT8,000 to file a claim and VT5,000 to file a counterclaim

6) What happens if the defendant does not file a defence?

If the defendant does not file a defence within 28 days of receiving the claim you may ask the Magistrate for a judgment without a hearing. A copy of that judgment must be served on the defendant.

7) What can I do if I think the defendant doesn't have a strong case?

If you think that the defence is not strong, you can make an application to the court to ask for judgment without a hearing.

8) What happens after the claim is filed?

The defendant and claimant will come to court on the day stated in the claim for the first hearing and the Magistrate will say what's going to happen next.

9) What happens at the Hearing of the case?

- The claimant will give his side of the story, present his evidence and call his witnesses if he has any.
- The defendant will give his side of the story, present his evidence and call his witnesses if he has any.
- Both you and the defendant can ask each other and the witnesses' questions.
- After hearing all the evidence the Magistrate will give a judgment.
- The party who has won may ask for repayment of their expenses.

10) What can I do if I am not happy with the judgment?

If you are not happy with the judgment you may appeal to the Supreme Court within 14 days from the date of the judgement.

to pay the victim of your crime some money.

- **Restitution:** The court can order you to refund the victim of your crime the value of any property damaged by you.

Who will be present in Court?

- Magistrate:

The Magistrate is the person who will decide your case.

- The Clerk:

The clerk is the person who helps the Magistrate during the case.

- The Public Prosecutor :

The Prosecutor represents the police who have charged you.

- Lawyer:

If you have a lawyer he will defend you.

- Witnesses:

The witnesses are the persons who come to give their side of the story for the Prosecutor and for you.

- Correctional officer:

The correctional officer brings you to court if you are in prison, prepares a report for the court about you and supervises you if you are given a non-custodial punishment or community service order.

What can I do if I am not happy with the decision of the Court?

If you are not happy with the decision you can appeal to the Supreme Court within 14 days from the date of the decision.



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MAGISTRATES COURT

CRIMINAL PROCEEDINGS GUIDE

What is a crime?

A crime is when you break the law and you can be punished by the court.

a. What is the power of the Magistrate's Court?

The Magistrate's Court has the power to deal with criminal cases where you can go to prison for 2 years or less.

b. Examples of crimes

- Stealing or theft: Taking something from another person without their permission, with the intention of not returning it.
- Physical assault: To punch, slap or kick someone with the intention of hurting them.
- Emotional assault: To hurt somebody using abusive language.
- Rape: to force someone to have sex.

What is a charge?

A charge is a document that states the crime you are accused of committing.

Do I need a lawyer?

When you receive the charge document you should find a lawyer to help you.

How do I come to Court?

You can be brought to court on a Summons or an Arrest.

1. Summons/Notice

This Notice tells you the day and time to come to court.

2. Warrant of arrest

The police can arrest you and bring you



to court.

What is "to remand"?

To remand is the decision of the court to put you in prison while your case is before the court.

What is bail?

To grant bail is the decision of the court to release you from prison while your case is before the court.

How does a case start?

On the date and time of hearing of your case, the court will ask you whether you plead guilty or not guilty.

a) What will happen if you plead guilty?

If you plead guilty at the beginning of your case or during the hearing of your case the court will give you a punishment.

b) What happens if you plead not guilty?

If you plead not guilty, the court will set a date and time to hear your case.

What happens at the hearing of your case?

- The prosecutor will bring witnesses who will give their side of the story against you in order to prove to the Magistrate that you should be found guilty. You can also ask the witnesses questions.
- The Magistrate will allow you to present your witnesses to help you prove you are not guilty. The Prosecutor can also ask your witnesses questions.
- If the prosecutor does not prove that you are guilty the court will say that you are free to go immediately.
- If the Prosecutor proves you are guilty then the court will punish you.

What type of punishment can the court give?

- Fine: The court will make you pay money to the state instead of going to prison.
- Imprisonment: The Court can send you to prison.
- Non-Custodial punishment: The court will not send you to prison but it will give you strict rules to follow.
- Community sentence: The Court can order you to do community work.
- Compensation: The court can order you

11) What happens at the end of the trial?

- After hearing all the evidence the Judge will give a judgment.
- The party who has won may ask for repayment of their expenses.

12) Must all parties be present for the delivery of judgment?

- The judgment may be handed out without the presence of the parties.

13) What can I do if I am not happy with the judgment?

If you are not happy with the judgment you may appeal to the Court of Appeal within 14 days from the date of the judgement.



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SUPREME COURT

CIVIL PROCEEDINGS GUIDE

1) What is the power of the Supreme Court?

The Supreme Court has the power to hear:

- Cases over 1,000,000 Vatu,
- Cases between landlord and tenant if the claim is above 2,000,000 Vatu,
- Custody and maintenance for children,
- Enforcement of judgments,
- Probates,
- Adoptions,
- Constitutional claims

2) How do I bring my problem to the court?

You will file a claim in the court which is a document saying what your problem is, what the other person has done to you and what you want from the court.

3) What do you do when you receive a claim?

You will have 28 days from the date you receive the claim to file a document called a defence in which you will answer every point in the claim and give your side of the story.

4) What if the claimant has done something to me?

You can file a counterclaim together with your defence saying what the claimant has done to you and what you are asking the claimant for.



5) How much does it cost to file a claim and a counterclaim?

It costs VT20,000 to file a claim and VT15,000 to file a counterclaim

6) What happens if the defendant does not file a defence?

If the defendant does not file a defence within 28 days of receiving the claim you may ask the Magistrate for a judgment without a hearing. A copy of that judgment must be served on the defendant.

7) What can I do if I think the defendant doesn't have a strong case?

If you think that the defence is not strong, you can make an application to the court to ask for judgment without a hearing.

8) What happens after the claim is filed?

- The defendant and claimant will be given a date to come to court for a first conference and the Judge will give directions on what each party is to do before the trial. The Judge will give a date for the pre-trial conference.
- At the pre-trial conference the judgement will make sure all the directions have been followed and he will give a date for the trial of the case.

9) What documents must I file with the court before trial?

Before the trial you will have to:

- Disclose all the documents you intend to rely on as evidence.
- You must put in your sworn statement and those of your witnesses giving your side of the story.

10) What happens at the trial of the case?

- The claimant will give his side of the story, present his evidence and call his witnesses if he has any.
- The defendant will give his side of the story, present his evidence and call his witnesses if he has any.
- Both you and the defendant can ask each other and the witnesses' questions.

your case. You should address him/her – your honour.

- The Clerk:

The clerk is the person who helps the Judge during the case.

- The Public Prosecutor :

The Prosecutor represents the police who have charged you for the offence committed.

- Lawyer:

If you have a lawyer he will defend you.

- Witnesses:

The witnesses are the persons who come to give their side of the story either in support for the Prosecutor or for you.

- Correctional officer:

The correctional officer brings you to court if you are in prison, prepares a report for the court about you and supervises you if you are given a non-custodial punishment or community service order.

What can I do if I am not happy with the decision of the Court?

If you are not happy with the decision you can appeal to the Court of Appeal within 14 days from the date of the decision.



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SUPREME COURT

CRIMINAL PROCEEDINGS GUIDE

What is a crime?

A crime is when you break the law and can be punished by the court if proven by public prosecutor that the offence was committed.

a. What is the power of the Supreme Court?

The Supreme Court deals with very serious crimes where you can go to prison for more than 2 years or even life..

b. Some examples of serious crimes

- Rape: to force someone to have sex.
- Murder: an act causing death
- Arson: causing a fire to burn property

What is a charge?

A charge is a document by Public Prosecutor that states the crime you are accused of committing.

Do I need a lawyer?

When you receive the charge document you should find a lawyer to help you.

Where can I get a lawyer if I do not have one?

The Public Solicitor is the rightful person to assist you in a criminal matter before the Supreme court.

How does a case start?

On the date and time of hearing of your case, the court will ask you whether you



plead guilty or not guilty.

a) What will happen if you plead guilty?

If you plead guilty at the beginning of your case or during the hearing of your case the court will give you a punishment.

b) What happens if you plead not guilty?

If you plead not guilty, the court will set a date and time to further hear your case.

What happens at the hearing of your case?

- The prosecutor will bring witnesses who will give their side of the story against you in order to prove to the Judge that you should be found guilty. You can also ask the witnesses questions.
- The Magistrate will allow you to present your witnesses to help you prove you are not guilty. The Prosecutor can also

ask your witnesses questions.

- If the prosecutor does not prove that you are guilty the court will say that you are free to go immediately.
- If the Prosecutor proves you are guilty then the court will punish you.

What type of punishment can the court give?

- Fine: The court will make you pay money instead of going to prison.
- Imprisonment: The Court can send you to prison.
- Non-Custodial punishment: The court will not send you to prison but it will give you strict rules to follow.
- Community sentence: The Court can order you to do community work.
- Compensation: The court can order you to pay the victim of your crime some money.
- Restitution: The court can order you to refund the victim of your crime the value of any property damaged by you.

Who will be present in Court?

- A Judge:

The Judge is the person who will decide