

# The Expedited Protection Order: What is it and Can it be challenged?

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## I. Introduction

Family is often a haven for many people to run to when things get rough. Unfortunately, family is sometimes the exact thing one wants to run away from when violence is present. In 2020, the Singapore Police Force received over 5000 reports of family violence.<sup>1</sup>

In Singapore, one can apply for a personal protection order (“PPO”) under the Women’s Charter to protect oneself against violence from a family member (the person applying for the PPO is known as an “applicant”). The PPO is a court order that discourages the family member from committing violence through criminal sanctions. If violence is committed despite the order, the family member could be fined and/or jailed.<sup>2</sup>

However, a PPO could take as long as five months to be granted.<sup>3</sup> During that time, the applicant could still be exposed to violence from the family member. Thus, the court could grant an expedited protection order (“EPO”).<sup>4</sup> This is a temporary PPO that serves to protect the applicant while the PPO application is pending.

So, what happens if you find yourself in a situation where your ex-wife informs you that she is getting an EPO against you? The present article will summarise the law on EPOs and inform you about what to do when an EPO is issued against you.

## II. Discussion

### A. *PPO vs EPO*

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<sup>1</sup> The Straits Times <https://www.straitstimes.com/singapore/police-release-figures-on-family-violence-offences-for-first-time-5135-reports-made-in> (accessed 8 October 2021).

<sup>2</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 65(8).

<sup>3</sup> Singapore Legal Advice <https://singaporelegaladvice.com/law-articles/what-is-a-personal-protection-order/> (accessed 8 October 2021).

<sup>4</sup> Family Justice Courts Singapore <https://www.familyjusticecourts.gov.sg/what-we-do/family-courts/family-protection> (accessed 8 October 2021).

To understand when and why an EPO is granted, it is important to first understand the difference between a PPO and an EPO (referred to collectively as “orders”).

Generally, there is not much of a difference between the orders. Both orders serve to deter family violence through criminal sanctions. Commission of family violence despite the orders would result in a fine not exceeding \$2000 and/or an imprisonment term not exceeding six months.<sup>5</sup>

The orders differ in terms of the urgency in which they are issued. As mentioned, PPOs could take up to five months to be issued. This is because PPOs are a powerful tool that discourage family violence through criminal sanctions. Thus, the court must find that family violence has or is likely to occur before issuing the PPO, which understandably takes time. However, the applicant could still be suffering from family violence in the meantime. Hence, this is where the EPO comes in: the court could issue an EPO as quickly as 24 hours after the application for a PPO.<sup>6</sup>

Accordingly, there are differences in the lengths of their validity. An EPO is only valid for 28 days upon its issuance, or until the date that the PPO trial starts, whichever is earlier.<sup>7</sup> In contrast, a PPO is valid for an indefinite amount of time, although the court could also set a date for it to cease to be valid.<sup>8</sup>

## ***B. Obtaining an EPO***

To obtain an EPO, the applicant must apply for a PPO and satisfy two requirements:<sup>9</sup>

- a) An act of family violence has been or is likely to be committed against the applicant by a family member; and
- b) It is necessary for the applicant’s protection that the order is made.

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<sup>5</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 65(8).

<sup>6</sup> Singapore Legal Advice <https://singaporelegaladvice.com/law-articles/what-is-a-personal-protection-order/> (accessed 18 September 2021).

<sup>7</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 66(1)(a) and s 66(1)(b).

<sup>8</sup> Family Justice Courts Singapore <https://www.familyjusticecourts.gov.sg/what-we-do/family-courts/family-protection> (accessed 8 October 2021).

<sup>9</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 65(1).

Ultimately, if both requirements are satisfied and the court is of the view that the applicant is in imminent danger and requires urgent protection, an EPO will be issued.<sup>10</sup>

(1) *An act of family violence has been or is likely to be committed against the applicant by a family member*

To fulfil the first requirement, the applicant must show that family violence has been or is likely to be committed by a family member.

First, “family member” under s 64 of the Women’s Charter (“WC”) includes a former spouse of the person.<sup>11</sup> Thus, an ex-wife can still apply for a PPO, notwithstanding the divorce.

Second, there are four types of acts under s 64 of the WC that constitute family violence:

- a) Willfully or knowingly placing, or attempting to place, a family member in fear of hurt.<sup>12</sup> In the case of *UMP v UMQ*,<sup>13</sup> the wife sent her husband messages indicating that she was going to stab herself and their children to death. The court was of the view that this amounted to family violence as it placed both the husband and their children in fear of possible hurt.<sup>14</sup>
- b) Causing hurt to a family member by an act which is known or ought to have been known would result in hurt.<sup>15</sup> In the case of *TDK v TDL*,<sup>16</sup> the court found that the act of the husband pushing and shoving his wife which resulted in the bruising of her wrist amounted to family violence under this limb.<sup>17</sup>
- c) Wrongfully confining or restraining a family member against their will.<sup>18</sup> While there are no reported cases on this, a possible example is locking a spouse up in the bedroom for a substantial amount of time, against his/her consent.

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<sup>10</sup> Family Justice Courts Singapore <https://www.familyjusticecourts.gov.sg/what-we-do/family-courts/family-protection> (accessed 8 October 2021).

<sup>11</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 64.

<sup>12</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 64(a).

<sup>13</sup> *UMP v UMQ* [2018] SGFC 57.

<sup>14</sup> *UMP v UMQ* [2018] SGFC 57 at [23].

<sup>15</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 64(b).

<sup>16</sup> *TDK v TDL* [2014] SGDC 88.

<sup>17</sup> *TDK v TDL* [2014] SGDC 88 at [19].

<sup>18</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 64(c).

- d) Continual harassment with the intent to cause or knowing that it is likely to cause anguish to a family member.<sup>19</sup> In the case of *UFD v UFC*,<sup>20</sup> the brother, for a period of four years, continually hurled insults toward the applicant-sister, calling her “old maid” and saying, “nobody will help you, you die”. He also constantly walked up to her without her notice and shouted loudly to scare her. The court was of the view that these actions amounted to family violence under this limb.<sup>21</sup>

Therefore, the commission of any of the above acts would satisfy the first requirement. However, even if none of the acts have been committed, the requirement is satisfied if the applicant can prove that there is a likelihood of it happening. This is because a PPO is meant to operate pre-emptively to prevent family violence from even crystallising.<sup>22</sup>

The court will consider the following non-exhaustive factors in determining the likelihood of family violence occurring:<sup>23</sup>

- a) The nature of the dispute or conflict between the family members;
- b) The level and nature of the escalation of the conflict;
- c) The parties’ relationship and their overall conduct, behavior, and demeanor; and
- d) Factors suggesting a possibility of a further deterioration of the relationship if left unchecked.

(2) *It is necessary for the applicant’s protection that the order is made*

Once the first requirement is satisfied, the court will proceed to the second requirement of necessity. The court must determine whether it is necessary for the applicant’s safety that the PPO is granted. This requirement is often satisfied unless the court finds a reason why, despite the commission or likelihood of family violence against the applicant, a PPO is not necessary.<sup>24</sup>

The court will consider the following non-exhaustive factors in deciding whether a PPO is necessary:

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<sup>19</sup> Women’s Charter (Cap 353, 2009 Rev Ed) s 64(d).

<sup>20</sup> *UFD v UFC* [2017] SGFC 106.

<sup>21</sup> *UFD v UFC* [2017] SGFC 106 at [17].

<sup>22</sup> *UMI v UMK and UMJ and another matter* [2018] SGFC 53 at [39].

<sup>23</sup> *UTH v UTI (on behalf of child)* [2019] SGFC 27 at [30].

<sup>24</sup> *TEK v TEJ* [2015] SGFC 89 at [11].

- a) The nature of the parties' relationship;
- b) The level of future communication and interaction;
- c) The frequency of contact; and
- d) Whether there is a history of family violence.

In the case of *TED v TEE*, the PPO was not granted even though family violence was committed as the court found it unnecessary.<sup>25</sup> This is because: a) the parties no longer lived together, b) the incidence of family violence was an isolated one, and c) there was no prior history of family violence.<sup>26</sup>

### ***C. Challenging an EPO***

An EPO is issued on an urgent basis without trial. Unfortunately, this means that there is no way to defend yourself against the EPO even if you think it is unfair.

You can only defend yourself when the EPO ceases and the trial for the PPO begins. There are two defences you can use:<sup>27</sup>

- a) That the force used against the applicant was for self-defence; and/or
- b) Even though family violence has occurred, the PPO is not necessary for the protection of the applicant.

To succeed in the first defence, you must prove that the force used was both proportionate and appropriate.<sup>28</sup>

For example, in the case of *TED v TEE*, the husband's defence that he used force out of self-defence failed because the force was not appropriate.<sup>29</sup> During an argument with the applicant-wife, she started throwing objects toward him. In response, he grabbed her arms and jaw. The court found that the grabbing of the applicant-wife's arms was proportionate and appropriate, but the grabbing of the jaw was not. This is because grabbing her jaw would not have stopped

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<sup>25</sup> *TED v TEE* [2015] SGFC 88.

<sup>26</sup> *TED v TEE* [2015] SGFC 88 at [35].

<sup>27</sup> *TEK v TEJ* [2015] SGFC 89 at [13].

<sup>28</sup> *TEK v TEJ* [2015] SGFC 89 at [15].

<sup>29</sup> *TED v TEE* [2015] SGFC 88 at [30] to [32].

the immediate threat to him – objects being thrown at him.<sup>30</sup> Therefore, the husband's defence failed.

The second defence is similar to the requirement of necessity mentioned above. Therefore, if you prove that you no longer live with your ex-wife and that there will no longer be any interaction between you two, the court is likely to find the PPO to be unnecessary and thus not grant it.

### **III. Conclusion**

In conclusion, an EPO is a powerful tool that discourages family violence through criminal sanctions, and thus should not be treated lightly. If an EPO is issued against you, it is advised that you ensure that your actions cannot be interpreted as family violence, as it could otherwise lead to severe consequences for you. Further, make use of the time before the trial for the PPO begins. Gather evidence for your defence that proves that you only used force out of self-defence, and/or that the PPO is unnecessary.

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<sup>30</sup> *TED v TEE* [2015] SGFC 88 at [30] to [32].