

DOMESTIC VIOLENCE BILL, 2019

(Bill No. 15 of 2019)

OBJECTS AND REASONS

The Domestic Violence Bill seeks to repeal the Family Violence (Protection of Victims) Act (Cap 268). The Bill adopts several best practices and models on domestic violence legislation already adopted by a number of Countries, including SADC Countries. These include —

- (a) comprehensive definition of what constitutes domestic violence, and what amounts to a domestic relationship;
- (b) criminalising acts of domestic violence;
- (c) clearly spelling out the roles of police officers regarding domestic violence, including taking aggrieved persons to shelters for domestic violence;
- (d) empowering the Directorate of Social Services to take further action once an aggrieved person has withdrawn a complaint of domestic violence against a perpetrator;
- (e) widening the scope of persons who may apply for a protection order, where the aggrieved person is unable to;
- (f) giving power to a Court handling a domestic violence offence to issue protection orders or interim protection orders, so that it is not only the Family Tribunal that may issue protection orders;
- (g) specifying that proceedings for protection orders will not affect the continuation of other civil or criminal proceedings arising out of the same facts;
- (h) protecting persons who have given Police information on domestic violence from civil or criminal liability;
- (i) widening the scope of persons who may file a complaint of domestic violence to Police;

- (j) providing for shelters for aggrieved persons and empowers the Minister responsible for family affairs to make regulations to regulate the establishment and running of the shelters;
- (k) makes provision of how to assist children or persons with disability who have suffered from, or are about to suffer from domestic violence;
- (l) empowering the Minister to come up with services to support both aggrieved persons and perpetrators of domestic violence as well as services to support persons offering support to aggrieved persons;
- (m) requiring the Minister responsible for Home Affairs to establish and maintain regular education and training programmes to police officers to acquaint them with handling domestic violence matters;
- (n) requiring the Minister in consultation with the Chief Justice to put in place specialised training programmes for judicial officers handling domestic violence matters;
- (o) requiring the Minister to put in place mechanisms for the effective coordination of Government agencies handling aspects of domestic violence as well as mechanisms for coordination with private sector institutions offering support to persons who have suffered from domestic violence.

The Bill is divided into 6 Parts and a Schedule

Part I provides for preliminary matters such as definition of certain words used in the Bill, including a comprehensive definition of domestic violence and domestic relationship.

Part II of the Bill provides for assistance to aggrieved persons by any person who has information concerning domestic violence; clear roles of, and the procedure to be followed by police officers as soon as domestic violence is reported to them; specifies circumstances where a police officer may without warrant arrest a person suspected to have committed an offence of domestic violence, and for withdrawal of complaints of domestic violence.

Part III provides for application for a protection order to the Family Tribunal by aggrieved persons or by other persons on behalf of the aggrieved person, including situations where the aggrieved person is a child or a person with a mental disability; the grant of interim protection orders by the Tribunal or court where there is serious risk of harm being caused to the applicant of a protection order; the conduct of proceedings by the Tribunal or the court handling of a domestic violence offence; matters to be taken into account in considering applications for issue of protection orders; issue of protection orders by the Tribunal or court and the contents of the protection order; contravention of a protection order and variation or revocation of a protection order; proceedings for a protection order not to affect the continuation of other criminal or civil proceedings and provides that no costs shall be allowed in proceedings for protection orders.

Part IV of the Bill provides for the provision of services, including counselling services, to persons who have suffered from domestic violence; to perpetrators of domestic violence and for services to be provided to persons offering support to aggrieved persons as well as perpetrators of domestic violence. The Minister responsible for Home Affairs in consultation with Seychelles Police is required to establish and maintain regular training programmes to equip the police in handling matters of domestic violence, and to establish special units within the Police to handle domestic violence, provision of specialised training to judicial officers handling domestic violence cases. The Minister is required to take necessary measures to publicise the provisions of the Act; to coordinate services provided by different Ministries or departments on domestic violence and to establish mechanisms to coordinate with civil society organisations.

Part V of the Bill provides for offences related to domestic violence and the penalties. Engaging in acts of domestic violence constitutes an offence of domestic violence. Penal Code offences specified in the Schedule to the Act become domestic violence offences once they are committed in the context of a domestic relationship. Other offences created are giving false information and disclosing records and information on domestic violence which reveals the identity of a person aggrieved by domestic violence.

Part VI of the Bill provides for miscellaneous matters including publishing information concerning proceedings in the Tribunal or in court; power of the

Chief Justice to make rules of court for purposes of applications under the Act; the making of Regulations by the Minister for the proper enforcement of the Act; repeal of the Family Violence (Protection of Victims) Act (Cap 268); and for savings and transitional provisions.

Dated this 30th day of September, 2019.

DAVID ESPARON
ACTING ATTORNEY-GENERAL

DOMESTIC VIOLENCE BILL, 2019*(Bill No. 15 of 2019)***ARRANGEMENT OF SECTIONS****SECTIONS****PART I - PRELIMINARY**

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SCHEDULE

DOMESTIC VIOLENCE BILL, 2019

(Bill No. 15 of 2019)



A BILL

OF

AN ACT to prohibit acts of violence in the domestic context, to provide protection of aggrieved persons, to provide penalty therefor and to make provision for services for aggrieved persons and perpetrators of domestic violence and for matters connected therewith and related thereto.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Domestic Violence Act, 2019 and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Short title

Interpretation

2. In this Act, unless the context otherwise requires —

“aggrieved person” means a person who alleges to have been subjected to an act of domestic violence;

“coerce” means to compel a person by force or threat to do, or refrain from doing, something;

“Court” means a Magistrates' Court as defined in the Criminal Procedure Code (Cap 54);

“Director of Social Services” means the person for the time being acting in the capacity or performing the functions of head of the division responsible for social affairs in the ministry or department responsible for family affairs and includes such other officers authorised by the director;

“domestic violence” has the meaning given to it in section 3;

“domestic violence offence” means an offence specified under section 27;

“domestic relationship” has the meaning given to it in section 4;

“economic abuse” includes —

- (a) unreasonably depriving a person of any economic or financial resources to which that person, or a family member or dependent of that person, is entitled under any law, or requires out of necessity or has a reasonable expectation of use, including household necessities and repayment of housing loans secured by any form of security or rent payments in respect of a shared residence;

- (b) unreasonably disposing of moveable or immovable property including household effects, in which a person, or a family member or dependent of that person, has an interest or a reasonable expectation of use;
- (c) destroying or damaging property in which a person, or a family member or a dependent of that person, has an interest or a reasonable expectation of use; or
- (d) hiding or hindering the use of property in which a person, or a family member or dependent of that person, has an interest or a reasonable expectation of use;
- (e) preventing a person in domestic relationship, by reason of obsessive possessiveness or jealousy, from engaging or undertaking in meaningful economic activities;

“emotional, verbal or psychological abuse”

- (a) means conduct towards a person that—
 - (i) torments, frightens, intimidates, harasses, degrades, humiliates or is offensive to the person, or a family member or dependent of that person;
 - (ii) makes the person, or a family member or dependent of that person, feel constantly unhappy, miserable, ridiculed, depressed, inadequate or worthless;
 - (iii) deprives the person, or a family member or dependent of that person of

privacy, liberty, integrity or security;
and

- (b) includes —
- (i) verbal abuse, insults, ridicule or name calling;
 - (ii) threats to cause emotional pain so as to torment, intimidate or frighten the person to whom the threat is directed;
 - (iii) exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the liberty, integrity or security of that person or a family member or dependent of that person;

“engaged” means engaged to be married and includes an engagement or betrothal under cultural or religious tradition;

“harassment” means —

- (a) repeatedly following, pursuing or accosting a person, a family member or dependent of that person and includes watching, or loitering outside or near such person's residence, school, workplace, place of business or other place that such person happens to be;
- (b) making persistent unwelcome communication with a person, a family member or dependent of that person and includes —
 - (i) repeatedly making telephone calls or inducing another person to make telephone calls to the person, whether or not conversation ensues;

(ii) repeatedly sending, delivering or causing to be sent or delivered any letter, telegram, package, facsimile, electronic mail, social media, or other object or message to the person's residence, school, workplace or place of business; or

(c) engaging in any other menacing behaviour;

“interim protection order” means an interim protection order made under section 13, pending the final determination of an application for a protection order;

“institution” means a Government institution or private sector institution or a civil society organisation;

“intimidation” means intentionally inducing fear in a person by —

- (a) engaging or threatening to engage in conduct that harms or is likely to cause harm to the safety, health or wellbeing of that person, or a family member or dependent of that person;
- (b) threatening to harm oneself;
- (c) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the threat is directed;
- (d) threatening to damage, destroy or dispose of property belonging to the person, or a family member or dependent of that person, or in which that person or another person has a material interest;

- (e) exhibiting a weapon before the person; or
- (f) engaging in any other menacing behaviour, including sending, delivering or causing to be sent or delivered an item which implies menacing behaviour;

“Minister” means the Minister responsible for Family Affairs;

“physical abuse” means physical assault or use of physical force against a person whether such assault or the use of such force results in physical injury or not, and includes —

- (a) the forcible confinement or detention of a person;
- (b) the deprivation of a person of access to adequate food, water, clothing, shelter or rest;
- (c) subjecting a person to torture or other cruel, inhuman or degrading treatment or punishment;

“prescribed” means prescribed by regulations made under this Act;

“protection order” means a protection order made by the Tribunal under section 16 or by a Court under section 17;

“respondent” means a person against whom a protection order is sought or is in force;

“school” includes an educational institution or other institution or place where a person studies or undergoes vocational training or apprenticeship;

“Secretary of the Tribunal” means the Secretary of the Tribunal appointed under section 78(6) of the Children Act (Cap 28);

“Social Services” means a department in the Ministry responsible for Family Affairs;

“sexual abuse” means conduct towards a person that abuses, humiliates, degrades or otherwise violates the sexual integrity of that person, whether or not the person is married to the person engaging in such conduct, and includes—

- (a) engaging in any such conduct with a person or with another person with whom that person has emotional ties;
- (b) coercing or forcing a person or another person with whom that person has emotional ties, to engage in any sexual contact;
- (c) exposing a person to sexual material which humiliates, degrades or violates that person's sexual integrity;

“sexual harassment” means repeatedly making unwanted sexual advances towards a person;

“Tribunal” means the Family Tribunal established by section 77 of the Children Act (Cap 28);

“unauthorised surveillance” of a person, means the unreasonable monitoring or tracking of that person's movements, activities or interpersonal associations without that person's consent, including by using technology.

3.(1) For the purposes of this Act, domestic violence, within the context of a domestic relationship, means engaging in any of the following acts or courses of conduct—

Definition
of domestic
violence

- (a) emotional, verbal or psychological abuse;
- (b) physical abuse;
- (c) sexual abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
- (g) unauthorised surveillance;
- (h) entering the residence or property of a person without his or her express or implied consent, where the parties do not share the same residence;
- (i) coercive or other conduct which, in any way —
 - (i) harms or may harm another person;
 - (ii) reasonably causes a person to fear for or to be apprehensive about, or endangers, the safety, health or wellbeing of that person;
 - (iii) undermines a person's privacy, integrity or security; or
 - (iv) detracts or is likely to detract from the person's dignity or worth as a human being; or
- (j) procuring or counseling a third person to engage in conduct specified in paragraphs (a) to (i).

(2) A number of acts that form a pattern of behaviour may amount to domestic violence even though some or all of the acts when viewed in isolation may appear minor or trivial.

4.(1) For the purposes of section 3, a person is in a domestic relationship with another person if —

Definition of
domestic
relationship

- (a) they were married to each other in accordance with the Civil Status Act (Cap 34) or any equivalent legislation in force in any country other than Seychelles or in accordance with any custom or religion;
- (b) they cohabit as *de facto* husband and wife including an *en ménage* relationship;
- (c) they are or were in an engagement, dating including an actual or perceived romantic, intimate or sexual relationship, and whether they are living in the same residence or not;
- (d) the persons were or are the parents of, or foster parents to, a common child or are expecting a child together;
- (e) the persons are or were family members related by blood, by marriage or by adoption, or stand in the place of such family members by virtue of foster arrangements;
- (f) they share the same residence or were or are co-tenants;
- (g) a relationship is determined by the Tribunal or the court, as appropriate, to be a domestic relationship.

(2) The Tribunal or a Court shall, in determining whether a relationship qualifies to be a domestic relationship under subsection (1) (g), have regard to any or all of the following —

- (a) the amount of time the persons spend together;
 - (b) the place where that time is ordinarily spent;
 - (c) the manner in which that time is spent; and
 - (d) the duration of the relationship.
- (3) Without prejudice to subsection (1)—
- (a) where a perpetrator of domestic violence is, or has been in a domestic relationship with the aggrieved person, and the perpetrator seeks to engage in domestic violence against the aggrieved person, anyone who is providing refuge to the aggrieved person is deemed to be in a domestic relationship with the perpetrator;
 - (b) where the perpetrator is or has been in a domestic relationship with an aggrieved person, anyone who incites the perpetrator to engage in such conduct, is deemed to be in a domestic relationship with the aggrieved person.

PART II - COMPLAINTS AND DUTIES OF POLICE OFFICERS

Duty to assist
aggrieved
persons

- 5.(1)** Any person or institution with information concerning the commission of an act of domestic violence shall—
- (a) advise the aggrieved person on the remedies available to him or her under this Act, such as filing a complaint with the Police against the perpetrator, or filing an application for a

protection order with the Tribunal, and any basic support which may be available to assist the aggrieved person;

- (b) advise the aggrieved person how to obtain shelter, medical treatment, legal services, counselling or other service that may be required in the circumstances; or
- (c) advise the aggrieved person of his or her right to lodge a complaint against the respondent including remedies available to aggrieved persons under this Act.

(2) Where the person referred to in subsection (1) is a police officer, the officer shall, in addition to the assistance given, as far as practicable, take, or cause the aggrieved person to be taken to a shelter for aggrieved persons, if the circumstances of the situation require that the aggrieved person be immediately removed from the scene of the domestic violence.

6.(1) A 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 nearest police officer.

Information to Police officer

(2) No liability, civil or criminal, shall be incurred by any person for, giving in good faith, an information for the purpose of subsection (1).

7. A police officer shall respond promptly to a request by any person for assistance from domestic violence and shall offer such protection as the circumstances of the case or the person who made the report requires even when the person reporting is not the aggrieved person.

Police officer to act promptly

8.(1) An aggrieved person may file a complaint about an incident of domestic violence with any Police officer on duty.

Filing of complaint with police

(2) Notwithstanding subsection (1), a complaint of domestic violence may be filed by any other person or institution with information about the domestic violence where the intervention is in the interest of the aggrieved person.

(3) A child or person with a physical or mental disability may be assisted by the Director of Social Services or any other person or institution in the interests of the child or person with a physical or mental disability, to file a complaint of domestic violence with the Police.

Procedure
after receipt
of complaint
by police

9.(1) Where a complaint is filed with the Police under section 8, a police officer shall —

- (a) interview the parties and witnesses to the domestic violence;
- (b) record the complaint in detail;
- (c) provide the aggrieved person with an extract of the complaint or a copy of the statement recorded from the aggrieved person and a copy of the statement recorded from a witness, upon request, in a language the aggrieved person understands;
- (d) refer the aggrieved person to a medical facility to obtain medical treatment, where necessary;
- (e) assist the aggrieved person to a shelter for aggrieved persons or any other place of safety as the circumstances of the case or as the aggrieved person requires where the person expresses concern about safety;
- (f) protect the aggrieved person to enable the person to retrieve personal belongings, where applicable;

- (g) assist and advise the aggrieved person to preserve evidence; and
- (h) advise the aggrieved person to apply to the Tribunal for a protection order.

(2) Where one of the parties or witnesses to an act of domestic violence, a complaint of which has been made under this section, is a child, the police officer who receives the complaint shall interview the child in the presence of the parent or guardian of the child, or in the presence of Director of Social Services, if the parent or guardian is the perpetrator .

(3) Family mediation, intervention or promotion of reconciliation shall not be a bar to the investigation or prosecution of a complaint of domestic violence.

(4) Nothing in this section shall be construed in any manner as to relieve a police officer from his duty to proceed to cause the perpetrator to be charged with a domestic violence offence or any other criminal offence, where the information received discloses the commission of such offence.

10. A police officer may, without a warrant, arrest a person where the police officer has reasonable grounds to believe that the person —

Arrest by
police
officer

- (a) is committing, or has committed, a domestic violence offence under this Act;
- (b) is about to commit a domestic violence offence and there is no other way to prevent the commission of the offence;
- (c) unless arrested, will, escape or cause an unreasonable delay, trouble or expense in being made answerable to justice, or interfere with the witnesses, or tamper with, or destroy, relevant evidence or material;

- (d) is wilfully obstructing the police officer in the execution of police duties; or
- (e) has contravened or is contravening an order issued under this Act.

Withdrawal of complaints of domestic violence by aggrieved persons

11.(1) Where —

- (a) an aggrieved person who has filed a complaint, or on whose behalf a complaint of domestic violence has been filed with the police request to withdraw the complaint from investigation and prosecution;
- (b) an aggrieved person request the court to withdraw the complaint and discontinue proceedings in which the perpetrator has been charged with an offence under this Act; or
- (c) on the request of an aggrieved person, the Attorney General, at any time before the judgment is pronounced, discontinue proceedings in which the perpetrator has been charged with an offence under this Act,

the police, the court or the Attorney General, as the case may be, being satisfied that there are sufficient grounds permitting the withdrawal or discontinuance of proceedings, shall, upon granting the request for withdrawal or discontinuance, refer the matter to Director of Social Services for further action.

(2) The Director of Social Services shall in addition to any other action that they may take, inquire from the aggrieved persons the reasons for the withdrawal of the complaint, and take such further action as circumstances of the matter require.

PART III - PROTECTION ORDERS

Application for protection order

12.(1) An aggrieved person may, in the prescribed manner, apply to the Tribunal for a protection order to prevent a

respondent from carrying out a threat of domestic violence against the aggrieved person, or to prevent the respondent from further committing acts which constitute domestic violence against the aggrieved person.

(2) If the aggrieved person is not represented by a legal representative, the Secretary to the Tribunal shall inform the aggrieved person of the remedies available to him or her under this Act, and of the procedure for lodging an application for a protection order.

(3) Notwithstanding subsection (1) and any other law, and subject to subsections (4) and (5), where an aggrieved person is for any reason unable to apply for a protection order personally, any other person with information about the domestic violence may assist the aggrieved person to apply for a protection order.

(4) Where the domestic violence involves a child, or a person with a physical or mental disability, the application may be made by —

- (a) a parent, guardian, custodian, caregiver or close relative of the child or of the person with a physical or mental disability, or a person with whom the child or person with a physical or mental disability normally resides;
- (b) Director of Social Services;
- (c) a police officer;
- (d) an institution dealing with protection of rights of children or rights of persons with mental disability; or
- (e) an institution with information about the domestic violence.

(5) A person who applies for a protection order on behalf of an aggrieved person *shall* obtain the prior written consent of the aggrieved person, except where the aggrieved person —

- (a) is a child;
- (b) has a mental disability;
- (c) is unconscious; or
- (d) is a person whom the Tribunal is satisfied is unable to provide the required consent.

(6) Where consent in writing of an aggrieved person cannot be obtained due to the limitations specified under subsection (5), the applicant shall seek the leave of the Tribunal to make an application without the consent of the aggrieved person.

(7) Where an application for a protection order is filed, the Tribunal shall fix a date, time and place for hearing of the application and shall cause a notice of the application to be served on the respondent, and summon the respondent to appear before the Tribunal on the date and time, and at the place fixed for hearing of the application to show cause why the protection order should not be made.

(8) Where, on the day specified in the summons served under subsection (7) for the respondent to appear before the Tribunal, the respondent fails to appear and the Tribunal is satisfied that the summons has been served on the respondent, the Tribunal may proceed to hear the application in the absence of the respondent.

(9) Where the Tribunal makes a protection order in the absence of the respondent, the protection order shall, unless the Tribunal orders otherwise, be served on the respondent personally and shall not be binding until it is so served.

(10) An application for a protection order shall, in any case be heard and determined by the Tribunal not later than 14 working days after the filing of the application.

(11) In any proceedings, other than criminal proceeding, before the Tribunal under this Act, the Tribunal may, of its own motion, call as a witness any person whose evidence may, in its opinion, be of assistance to the Tribunal.

(12) The power conferred by subsection (11) includes, without limitation, power to call as a witness —

- (a) the aggrieved person or the respondent;
- (b) the spouse or partner of the aggrieved person or the respondent;
- (c) a specified person.

(13) If the Tribunal calls a witness under this section, the witness may be examined and re-examined—

- (a) by the Tribunal;
- (b) by or on behalf of any party to the proceedings;
- (c) by any legal practitioner or representative of a party to the proceedings.

(14) Every question of fact arising in any proceedings, other than criminal proceedings, for a protection order shall be decided on a balance of probabilities.

(15) The Chief Justice may make rules for the purpose of regulating the practice and procedure of the Tribunal in proceedings under this Act, providing for such matters as are necessary for giving full effect to this Act and for its administration.

Interim
protection
order

13.(1) Where upon the filing of an application for a protection order, the Tribunal is satisfied that there is a serious risk of harm being caused to the applicant or to any person for whose benefit the order is sought, before the respondent may be summoned and heard, and it is appropriate to do so, the Tribunal may make an interim protection order and the order shall, unless the Tribunal determines otherwise, remain in force until the determination of the application.

(2) Where the Tribunal makes an interim protection order under subsection (1) it may apply the provisions of section 16 (3), (4), (5) and (6).

(3) The interim protection order shall be served on the respondent personally and it is not binding until it is served, unless the Tribunal orders otherwise.

Conduct of
proceedings

14.(1) No person may be present during the hearing of any proceedings, other than criminal proceedings, under this Act, except the following persons —

- (a) officers of the Tribunal;
- (b) the parties to the proceedings;
- (c) the Director of Social Services;
- (d) any legal practitioner or person representing any party to the proceedings;
- (e) any other person whom the Tribunal permits to be present.

(2) For the purposes of any proceedings to which this section applies, any party to the proceedings, being an applicant for a protection order, may nominate a reasonable number of persons, being members of the party's family or any other person, to attend any hearing of those proceedings for the purpose of providing support to that party.

(3) An aggrieved person who is also a necessary witness in the trial shall in the circumstances of the case, or as assessed by a counsellor, be provided with assistance, which may include the following —

- (a) his or her evidence to be taken in camera or through a video link from a safe location;
- (b) professional support by a counselor or psychologist during trial;
- (c) protection from answering certain questions that tend to scandalise or bring the aggrieved person to public ridicule, shame or disrepute.

15. In considering an application for a protection order and the terms of the protection order the Tribunal shall have regard to —

- (a) the need to ensure that the applicant or other person for whose benefit the protection order is sought are protected against violence;
- (b) the welfare of any child affected or likely to be affected by the conduct of the respondent;
- (c) the accommodation needs of the applicant or other person for whose benefit the protection order is sought;
- (d) any other legal proceedings between the respondent and the applicant or other person for whose benefit the application is sought; or
- (e) any other matter that the Tribunal may consider relevant including the nature of the order sought by the application.

Matters to be taken into consideration in application for protection order

16.(1) The Tribunal may, subject to subsection (2), after hearing an application for a protection order, if it is satisfied on a balance of probabilities that the person for whose benefit the

Issue of protection order

protection order is sought, has been or is likely to be subjected to domestic violence by the respondent, grant the application and make a protection order against the respondent.

(2) A protection order may impose such restraints on the respondent as may be necessary or desirable to prevent the respondent from engaging in any conduct which may constitute domestic violence, and it may apply for the benefit of —

- (a) the applicant or other person on whose behalf or for whose benefit the order is sought; or
- (b) any other person specified in the order including a child or dependent of the applicant.

(3) Without limiting the effect of subsection (2), a protection order may —

- (a) prohibit the respondent from —
 - (i) being on premises at which any person for whose benefit the order applies resides, works, is studying or is undergoing vocational training or an apprenticeship;
 - (ii) being on premises specified in the order, frequented by any person for whose benefit the order applies;
 - (iii) being in a locality specified in the order;
 - (iv) approaching within a distance specified in the order, of any person for whose benefit the order applies;
 - (v) contacting, harassing, threatening or intimidating any person for whose

benefit the order applies, or any other person at a place where the person for whose benefit the order applies resides, works, is studying or is undergoing vocational training or an apprenticeship;

- (vi) damaging property of the person for whose benefit the order applies or property, including furniture and household effects, used by that person;
 - (vii) taking possession or disposing of movable or immovable property, or any interest in such property, including furniture and household effects, used by any person for whose benefit the order applies;
 - (viii) causing or allowing another person to engage in any conduct referred to in paragraph (a)(i) to (viii);
- (b) direct the respondent to return any movable property specified in the order to any person for whose benefit the order applies or to allow that person to recover or have access to or make use of movable property specified in the order;
 - (c) direct the respondent to allow any person for whose benefit the order applies to have access to or make use of any immovable property specified in the order;
 - (d) direct the respondent to attend such counselling or rehabilitation programmes as may be specified in the order;
 - (e) specify conditions subject to which a respondent may—

- (i) be on or in a locality specified in the order;
- (ii) approach or contact any person for whose benefit the order applies or any other person at a place where the person for whose benefit the order applies works, resides, is studying or is undergoing vocational training or an apprenticeship;
- (f) contain any other condition which the Tribunal considers necessary in the circumstances.

(4) A protection order may be made against a respondent in relation to premises or property even though the respondent has a legal or equitable interest in the premises or property.

(5) Where the Tribunal makes an order which prohibits the respondent from being on, or limits the access of the respondent to, rental premises or premises in respect of which the respondent and any person for whose benefit the protection order applies, are repaying any instalments in respect of a loan secured by a mortgage or a charge the Tribunal may, when making the order also order the respondent to pay the rent or instalments during the validity of the order.

(6) A protection order made under this section —

- (a) shall be valid for the period specified in the order;
- (b) shall not, in any event, be valid for a period of more than 24 months.

Court in
criminal
proceedings
my issue
protection
order

17.(1) A Court —

- (a) before which criminal proceedings in relation to a domestic violence offence under section 27 is

pending may, on its own motion or on an application by the aggrieved person or any other person applying on behalf of the aggrieved person, considering the circumstances of the case, make a protection order against the defendant for the benefit of the aggrieved person or his or her children or dependents or any other person named in the order;

- (b) which convicts a person of a domestic violence offence may make a protection order against that person.

(2) An application for a protection order under subsection (1)(a) shall be made in a prescribed manner.

(3) Where a Court makes a protection order under this section, sections 15 and 16 shall apply to the making of such order with such modifications as are necessary.

(4) Where criminal proceedings in relation to domestic violence are pending before a court, an application for a protection order in respect of conduct which forms the basis of such proceedings, made after the proceedings were instituted in court, shall be made to that Court.

(5) Where an application for a protection order was made to the Tribunal before the institution of criminal proceedings before the Court, the Tribunal shall deal with the matter and inform the Court of its determination.

(6) Where the Tribunal deals with an application under subsection (5), it shall send the file to the relevant court, and any subsequent application for variation or revocation of a protection order shall be made to the Court, not the Tribunal.

18. A respondent who has been served with a copy of a protection order or an interim protection order who

contravenes the order in any respect, commits an offence and is liable on conviction —

- (a) in the case of a first offence, to a fine not exceeding SCR 30,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment;
- (b) in the case of a second or subsequent offence, to a fine not exceeding SCR 50,000 or to imprisonment for a term not exceeding 5 years or to both such fine and imprisonment.

Variation or
revocation of
protection
order

19.(1) Where a protection order is in force, the respondent, the applicant or other person for whose benefit the order applies may apply to the Court or the Tribunal which made the order for a variation or revocation of the order.

(2) The person applying for the variation or revocation of a protection order shall cause a copy of the application to be served on the other party and the Court or the Tribunal, as the case may be, shall, before varying or revoking the order, allow all the parties affected by the order a reasonable opportunity to be heard and shall have regard to the matters to be considered before issuing a protection order specified in section 15.

Proceedings
for protection
order not to
affect other
proceedings

20.(1) Proceedings in respect of a protection order or an interim protection order under this Act shall not affect —

- (a) a criminal proceeding for a domestic violence offence against the respondent arising out of the same conduct under this or any other Act;
- (b) civil proceedings including proceedings for divorce, judicial separation or compensation, to which the person concerned in the application is a party, are pending; or

- (c) any civil liability of the respondent.

(2) The fact that a protection order was made may be introduced as a material fact in subsequent civil proceedings or criminal proceedings for an offence under this Act.

21.(1) Notwithstanding any other written law but subject to subsection (2), no costs shall be allowed in proceedings under this Part.

Costs

(2) The Tribunal may, where it is satisfied that an application for a protection order was made in bad faith, on the application of a respondent, order the applicant to pay costs to the respondent.

PART IV - SERVICES

22.(1) The Minister shall ensure that constant access and intake to services are provided to an aggrieved person and other persons, who are affected by domestic violence, including members of their families and their dependents.

Services to
aggrieved
persons and
other persons
offering
support

- (2) The services referred to in subsection (1) include —
- (a) crisis intervention services;
 - (b) immediate transportation from the aggrieved person's home to a medical centre or shelter for aggrieved persons or any other safe place;
 - (c) immediate medical attention;
 - (d) counseling and referrals for aggrieved persons; and
 - (e) crisis counseling to provide support and assurance of safety for aggrieved persons and other persons who are affected by such violence.

(3) The Minister shall ensure that services are offered to persons dealing with or offering support to aggrieved persons and the services include —

- (a) training on confidential handling of all contacts with aggrieved persons and their families;
- (b) training on the delivery of services to assist in the long-term rehabilitation of aggrieved persons through counselling, job training and referrals;
- (c) training on the delivery of services to assist in the long-term rehabilitation of perpetrators of domestic violence through counselling;
- (d) programmes for domestic violence which are administered independently of welfare assistance programmes;
- (e) counselling services and programmes to support police officers, judicial officers and any other officers dealing with cases of domestic violence.

(4) Services referred to in subsection (1) may be delivered by the Republic or by the Republic in collaboration with persons and organisations in the private sector or an institution.

(5) The Minister shall issue guidelines for the provision of services referred to in this section and for the coordination of the delivery of such services.

23. The Minister shall ensure that counselling services and programmes provided for under this Act are of an approved standard and are provided by qualified persons or at an

approved institution registered or licensed in accordance with any written law and as prescribed by Regulations.

24.(1) The Ministry responsible for Family Affairs, in consultation with the Commissioner of Police, shall establish and maintain regular education and training programme for police officers to generally acquaint them with handling matters of domestic violence.

Training Programme for police officers

(2) The Ministry responsible for Family Affairs, in consultation with the Commissioner of Police, shall establish special units within the police force and police officers within these units shall receive intensive and specialised training to handle complex cases of domestic violence in accordance with established procedures and guidelines.

25. The Minister in consultation with the Chief Justice shall ensure that judicial officers dealing with domestic violence offences receive specialised training in handling such cases.

Specialised training for judicial officers

26. The Minister shall take all measures necessary to ensure that —

Enforcement of Act

- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- (b) there is effective co-ordination between the services provided by Ministries and Departments dealing with domestic violence matters;
- (c) mechanisms are put in place for effective coordination between Government and institutions providing services and support to aggrieved persons.

PART V - OFFENCES AND PENALTIES

Domestic
violence
offences

27.(1) A person who does an act of domestic violence as defined in section 3 of this Act commits an offence and is liable —

- (a) on a first conviction, to a fine not exceeding SCR30,000;
- (b) on a second conviction, to a fine not exceeding SCR50,000 and to imprisonment for a term not exceeding 2 years;

(2) The offences listed in the Schedule are domestic violence offences when they are committed or alleged to have been committed against a person with whom the person charged with any of the these offences has a domestic relationship.

(3) Any person found guilty of a domestic violence offence under subsection (2) is liable on conviction to the penalties ordinarily applicable to the offence in question.

(4) Notwithstanding any other law, it shall not be a defence to a prosecution for a domestic violence offence —

- (a) that the aggrieved person consented to the act constituting the offence alleged to have been committed;
- (b) that at the time of the commission of the offence the perpetrator was married to, or cohabiting as *de facto* husband or wife including an *en ménage* relationship with the aggrieved person;
- (c) that the act constituting the offence alleged to have been committed was a cultural or religious practice; or

- (d) that the perpetrator committed the act constituting the alleged offence as a result of provocation caused by the infidelity of the aggrieved person.

(5) The Court shall, in sentencing a person convicted of a domestic violence offence, consider whether aggravated circumstances exist.

(6) Before sentencing a person convicted of a domestic violence offence, the Court may direct the Director of Social Services to submit a social services report with respect to the matter before the Court and, in sentencing the person give due consideration to such report.

(7) The Court may, where it convicts a person of a domestic violence offence, in addition to any penalty provided for that offence —

- (a) make a protection order against that person in accordance with section 16(1)(b);
- (b) order the person to follow an approved counseling or rehabilitation programme provided by a qualified person or at an approved institution, registered or licensed in accordance with any written law;
- (c) order the person to pay such compensation to the aggrieved person as the Court may determine.

28. A person who intentionally gives false information with respect to conduct constituting domestic violence to a police officer, commits an offence and is liable on conviction to a fine not exceeding SCR30,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

Giving of false information

Disclosure of records and information on domestic violence

29.(1) A person shall not disclose or publish or cause to be published records and information on cases of domestic violence which are recorded or kept by any person in the performance of their functions, where this reveals or might reveal the identity of an aggrieved person or an immediate member of the family of an aggrieved person, without the consent of such person or family member.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding SCR30,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

PART VI - MISCELLANEOUS

Publication of information on proceedings under Act

30.(1) A person shall not publish any information concerning proceedings in the Tribunal in relation to application for a protection order, except with the authorisation of the Tribunal, and subject to such conditions as the Tribunal considers appropriate.

(2) Sections 58A to 58C of the Criminal Procedure Code shall apply, with respect to publishing information concerning criminal proceedings in respect to a domestic violence offence.

Rules of Court

31. The Chief Justice may for the purpose of an application under this Act make rules of court concerning *inter alia* —

- (a) its form and manner in which it shall commence;
- (b) the giving of notice to persons affected by an application under this Act;
- (c) the discharge of an order issued pursuant to this Act; and
- (d) the forms necessary for the purposes of this Act.

32.(1) The Minister may make regulations for carrying out the purposes and provisions of this Act and for prescribing anything that is required to be prescribed under this Act.

Repeal,
Transitional
Provisions
and Savings

(2) Without limiting the generality of subsection (1), regulations made under subsection (1) may provide for —

- (a) the education rehabilitation and counselling of aggrieved persons and perpetrators of domestic violence;
- (b) places of shelter for aggrieved persons and rules for the establishment and operation of such shelters;
- (c) enhancement of social welfare services for aggrieved persons;
- (d) the modalities for the provision of free medical treatment for aggrieved persons; and
- (e) any matter for the effective implementation of this Act.

33.(1) The Family Violence (Protection of Victims) Act (Cap 268) is hereby repealed.

Repeal,
Transitional
Provisions
and Savings

(2) Notwithstanding the repeal under subsection (1), an application for a protection order made under the repealed Act —

- (a) that is wholly or partly heard anytime before the commencement of this Act comes into force, is to be continued and dealt with as if this Act had not come into operation;
- (b) that has not been wholly or partly heard at the time that this Act comes into force, is to be taken to be an application made under this Act and this Act is to apply accordingly.

(3) A protection order made under the repealed Act, that was in force immediately before the commencement of this Act, shall have effect as if granted under this Act.

(4) An investigation of an act committed under the repealed Act that constitute domestic violence or a domestic violence offence under this Act may be continued, dealt with and prosecuted as a domestic violence offence or as domestic violence under this Act.

SCHEDULE

Section 27(2)

1. Threatening violence
2. Common nuisance
3. Acts intended to cause grievous bodily harm
4. Grievous harm
5. Administering poison
6. Wounding
7. Common assault
8. Indecent assault
9. Assaults occasioning bodily harm
10. Sexual assault
11. Sexual interference
12. Criminal trespass
13. Any attempt to commit any of the above offences