

Domestic Violence Act, 2013



THE GAMBIA  
NO. 14 OF 2013

Assented to by The President,  
this 30 day of Dec , 2013

YAHYA A. J. J. JAMMEH  
President



AN ACT to combat domestic violence, to provide protection for the victims of domestic violence; particularly women and children and for connected matters.

[ ]

ENACTED by the President and the National Assembly.

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Domestic Violence Act, 2013.

# DOMESTIC VIOLENCE ACT, 2013

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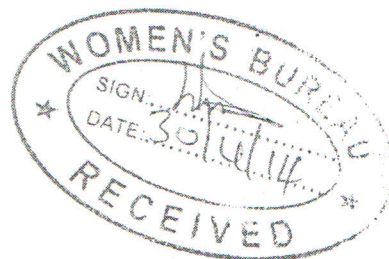
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## 2. Interpretation

In this Act, unless the context otherwise requires –

“abuse” means conduct that harms or is likely to cause harm to the safety, health or well being of the complainant;

“aggravated” in relation to domestic violence, refers to any act of domestic violence where-

- (a) it has caused the victim to suffer wounding or grievous bodily harm, or
- (b) the court considers the incident or incidents to be so serious as to be aggravated, taking into consideration-
  - (i) whether a weapon was used,
  - (ii) any failure to respond to previous warnings by the Police, the court or any official body,
  - (iii) evidence of premeditation,
  - (iv) whether the victim is particularly vulnerable, and
  - (v) any other consideration the court considers appropriate;

“alleged offender” means a person against whom a complaint of domestic violence is filed;

“applicant” means a person who applies for a protection order under this Act;

"associated respondent" means a person associated with another person against whom an application for a protection order has been brought;

"child" means a person below eighteen years;

"Complainant" means a person who makes a complaint or on whose behalf a complaint is made to the Police, under section 8;

"court" includes the High Court, Magistrate's Court and Children's Court;

"economic abuse" includes-

- (a) the unreasonable deprivation of any economic or financial resources to which the Complainant or a family member or dependant of the Complainant is entitled under any law, requires out of necessity or has a reasonable expectation of use, including household necessities and bond repayments or rent payments in respect of a shared household,
- (b) unreasonably disposing of moveable or immovable property in which the Complainant or family member or dependent of the Complainant has an interest or a reasonable expectation of use,
- (c) destroying or damaging property in which the Complainant has an interest or a reasonable expectation of use;

"emergency monetary relief" means compensation for monetary losses suffered by a Complainant at the time of the issue of a protection order as a result of domestic violence, including, as appropriate -

- (a) loss of earnings,
- (b) medical and dental expenses,
- (c) relocation and accommodation expenses, and
- (d) household necessities;

"household chattels" include jewellery, clothes, furniture and furnishing, refrigerator, television, radiogram, other electrical and electronic appliances kitchen and laundry equipment, hunting equipment, books, motor vehicles, other than vehicles used wholly for commercial purposes, and household livestock;

"intimidation" means intentionally inducing fear in another person by –

- (a) threatening to abuse that person or a third party,
- (b) threatening to damage, destroy or dispose of property in which that person or a third party has a material interest, or
- (c) exhibiting a weapon before that person;

"marriage" includes marriage under any custom or religion;

"Minister" means the Minister responsible for Women's Affairs and "Ministry" shall be construed accordingly

"next friend" means a person who intervenes to assist a child to bring a legal action;

"order" means a protection order;

"physical abuse" means physical assault or use of physical force against another person; including the forcible confinement or detention of another person and the deprivation of another person of access to adequate food, water, clothing, shelter, rest, or subjecting another person to torture or other cruel inhuman or degrading treatment or punishment;

"place of safety" means premises where the welfare of victims of domestic violence is assured;

protection order" means an order made by the court under sections 13, 14 and 15 and on the final determination of an application;

"respondent" means a person against whom a protection order is brought; and

"sexual abuse" means –

- (a) the forceful engagement of another person in a sexual contact, which includes sexual conduct that abuses, humiliates or degrades the other person or otherwise violate another person's sexual integrity; or
- (b) a sexual contact by a person aware of being infected with human immunodeficiency virus (HIV) or any other sexually transmitted infection with another person without that other person being given prior information of the infection;

"sexual harassment" means excluding married couples, sexual contact without the consent of the person with whom the contact is made, repeatedly making unwanted sexual advances, repeatedly following, pursuing or accosting a person, or making persistent, unwelcome communication with a person and includes

- (a) watching, loitering outside or near a building where the harassed person resides, works, carries on business, studies or happens to be;
- (b) repeatedly making telephone calls or inducing a third person to make telephone calls to the harassed person, whether or not conversation ensues;
- (c) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects or messages to the harassed person's residence, school or workplace; and
- (d) engaging on any other menacing or threatening behavior.

**PART II – ESTABLISHMENT, COMPOSITION AND FUNCTIONS  
OF THE VICTIMS OF VIOLENCE ADVISORY COMMITTEE**

**3. Establishment of Victims of Violence Advisory  
Committee**

There is hereby established the Victims of Violence Advisory  
Committee.

**4. Composition of the Advisory Committee**

(1) The Advisory Committee consists of-

- (a) the Permanent Secretary of the Ministry responsible for Women's Affairs, as the Chairperson;
- (b) a representative of the Attorney General's Chambers not below the rank of Principal State Counsel;
- (c) a representative of the Ministry responsible for Local Government not below the rank of a Deputy Permanent Secretary;
- (d) a representative of the Ministry responsible for Health not below the rank of Deputy Director;
- (e) a representative of the Ministry responsible for Basic Education not below the rank of a Deputy Director;
- (f) a representative from the Police Force not below the rank of Superintendent;
- (g) the Executive Director of Women's Bureau;
- (h) a representative of the Ministry responsible for Youths not below the rank of Director;
- (i) a representative of the Supreme Islamic Council;
- (j) a representative of the Christian Council; and
- (k) two representatives of civil society organisations, approved by the Minister.

(2) The Director of Social Welfare shall be the secretary to the Board.



## 5. Functions of the Advisory Committee

The Advisory Committee shall-

- (a) make recommendations for a national plan of action against gender based violence and monitor and report on the progress of the national plan of action through the Minister;
- (b) advise the Minister on policy matters under this Act;
- (c) propose and promote strategies to prevent and combat gender based violence;
- (d) liaise with government agencies, organisations and individuals to promote the rehabilitation and reintegration of victims of violence;
- (e) advice on guidelines for disbursement from the fund;
- (f) manage the fund;
- (g) advocate and support research on international and regional developments and standards for dealing with matters of gender based violence;
- (h) supervise and monitor the implementation and administration of this Act and any other legislation relating to gender based violence;
- (i) support resource mobilisation activities; and
- (j) deal with any other matters concerned with gender based violence.

## 6. Meetings of the Advisory Committee

- (1) The Advisory Committee shall meet at least once every three months.
- (2) The quorum for the Advisory Committee meeting is six members.
- (3) The Chairperson shall preside at meetings of the Advisory Committee and in the absence of the Chairperson, the members present shall elect a person from among their number

to preside.

(4) Matters before the Advisory Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(5) The Advisory Committee may co-opt a person to attend its meeting but the co-opted person shall not vote on any matter put to a vote.

(6) The Advisory Committee may determine the procedure for its meetings.

#### **7. Allowances**

Members of the Advisory Committee shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

#### **8. Secretariat of the Advisory Committee**

(1) The Advisory Committee shall have a secretariat which shall be located at the Ministry.

(2) The Ministry shall provide the facilities and personnel for the functioning of the Secretariat.

### **PART III – VICTIMS OF DOMESTIC VIOLENCE SUPPORT FUND**

#### **9. Establishment of Victims of Domestic Violence Support Fund**

There is established by this Act, Victims of Domestic Violence Support Fund.

#### **10. Objectives of the Fund**

Moneys in the Fund shall be applied-

- (a) towards the basic material support of victims of domestic violence;
- (b) for training the families of victims, families and care supporters of victims of domestic violence;

- (c) for any matter connected with the rescue, rehabilitation and reintegration of victims of domestic violence;
- (d) towards the construction of shelters for victims of domestic violence in all the regions and districts;
- (e) for sensitisation and advocacy; and
- (f) for training and capacity building of persons connected with the provision of shelter, rehabilitation and reintegration.

#### **11. Sources of moneys for the Fund**

The Fund shall consist of-

- (a) voluntary contributions from individuals, organisations and the private sector; and
- (b) moneys from any other source approved by the Minister responsible for finance.

#### **12. Management of the Fund**

- (1) The Fund shall be managed by the Advisory Committee.
- (2) The Advisory Committee shall pay all moneys of the Fund into a bank account opened for the purpose.

#### **13. Accounts and audit**

- (1) The Advisory Committee shall keep books of accounts for the Fund and proper records in relation to them.
- (2) The Advisory Committee shall submit the accounts of the Fund to the Minister to be audited as part of the Ministry's overall audit, within one month after the end of the financial year.

#### **14. Annual report of the Fund**

- (1) The Advisory Committee shall within one month after the end of the financial year, submit an annual report to the Minister for the year to which the report relates.
- (2) The annual report shall include any information that the Minister may consider necessary.

## PART IV – OFFENCE OF DOMESTIC VIOLENCE

### 15. Meaning of domestic violence

“Domestic violence” means engaging in the following within the context of a previous or existing domestic relationship-

- (a) an act under the Criminal Code which constitutes a threat or harm to a person under that Code;

[Cap 10.01]

- (b) specific acts, threats to commit, or acts which result in-
  - (i) physical assault or use of physical force against another person including the forcible confinement or detention of another person and the deprivation of another person of access to adequate food, water, clothing, shelter, rest, or subjecting another person to torture or other cruel, inhuman or degrading treatment or punishment,
  - (ii) sexual abuse,
  - (iii) economic abuse, or
  - (iv) emotional, verbal or psychological abuse namely any conduct that makes another person feel constantly unhappy, miserable, humiliated, ridiculed, afraid, jittery or depressed or to feel inadequate or worthless;
- (c) sexual harassment and intimidation by inducing fear in another person; and
- (d) behavior or conduct that in anyway-
  - (i) harms or may harm another person,
  - (ii) endangers the safety, health or well-being of another person,
  - (iii) undermines another person's privacy, integrity or security, or
  - (iv) detracts or is likely to detract from another person's dignity and worth as a human being

### **16. Meaning of domestic relationship**

(1) "Domestic relationship" means family relationship, a relationship akin to a family relationship or a relationship in a domestic situation that exists or has existed between a complainant and an alleged offender and includes a relationship where the complainant –

- (a) is or has been married to the alleged offender;
- (b) lives with the alleged offender in a relationship in the nature of a marriage notwithstanding that they are not, were not married to each other or could not or cannot be married to each other;
- (c) is engaged to the alleged offender, courting the alleged offender or in an actual or perceived romantic, intimate, or cordial relationship not necessarily including a sexual relationship with the alleged offender;
- (d) and the alleged offenders are parents of a child, are expecting a child together or are foster parents to a child;
- (e) and the alleged offenders are family members related by consanguinity, affinity or adoption, or would be so related if they are married either customarily or under any enactment or were able to be married or if they were living together as spouses although they are not married;
- (f) and the alleged offender, share or shared the same residence or are co-tenants;
- (g) is a parent, an elderly blood relation or is an elderly person who is by law a relation of the alleged offender;
- (h) is a house help in the household of the alleged offender;
- (i) lives in or attends a public or private care institution and is under the care and control of the alleged offender; and

(j) is in relationship determined by the court to be domestic relationship.

(2) A court shall, in a determination under paragraph (j) of sub-section (1) have regard to –

- (a) the length of time the persons spent together;
- (b) the place where the time is ordinarily spent;
- (c) the manner in which that time is spent; and
- (d) the duration of the relationship.

(3) Without prejudice to sub-section (1), a person is in a domestic relationship where the person –

- (a) is providing refuge to a complainant whom an offender seeks to attack; or
- (b) is acting as an agent of the offender or encouraging him or her.

#### **17. Prohibition of domestic violence**

(1) A person in a domestic relationship shall not engage in domestic violence.

(2) A person in a domestic relationship who engages in domestic violence commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dalasis or imprisonment not exceeding two years or to both.

(3) The Court may in addition to imposing a fine or a prison term, order the offender in a case of domestic violence to pay compensation to the victim as the Court may determine.

(4) When a cause for complaint has arisen between persons in a domestic relationship and the persons do not cohabit, none of those persons shall enter into the residence of the other person without that other person's permission.

#### **18. Domestic violence not justified by consent**

The use of violence in the domestic setting is not justified on the basis of consent.

**19. Number of acts which would amount to domestic violence**

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

**PART V- COMPLAINTS**

**20. Filing of complaint to the Police**

- (1) A victim of domestic violence or any other person with information about domestic violence may file a complaint with the Police about the domestic violence.
- (2) A child may be assisted by a next friend to file a complaint of domestic violence.
- (3) Notwithstanding sub-section (1), a complaint of domestic violence may be filed by a social welfare officer or health care provider where the intervention is in the interest of the victim.
- (4) Where a victim is for any reason unable to file a complaint personally, a member of the victim's family may file a complaint on behalf of the victim.
- (5) Where a person who could have been a Complainant under this Act has died, the complaint may be made by the deceased person's personal representative or by a member of the deceased's family or any other person competent to represent the deceased.
- (6) A complaint of domestic violence may be filed with the Police at the place where the –
  - (a) offender resides;
  - (b) victim resides;
  - (c) domestic violence occurred or is occurring; or
  - (d) victim is residing temporarily where the victim has left her or his usual place of abode.

## **21. Police to respond promptly**

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 required, even when the person reporting is not the victim of the domestic violence.

## **22. Police assistance after receipt of complaint**

(1) When a Police Officer receives a complaint under section 20(1), the officer shall –

- (a) interview the parties and witnesses to the domestic violence, including children in accordance with the provisions of the Children's Act;
- (b) record the complaint in detail and provide the victim with an extract of the complaint upon request in a language the victim understands;
- (c) assist the victim to obtain medical treatment where necessary;
- (d) assist the victim to a place of safety as the circumstances of the case or as the victim requires where the victim express concern about safety;
- (e) protect the victim to enable the victim retrieve personal belongings, where applicable;
- (f) assist and advise the victim to preserve evidence; and
- (g) assist and advise the victim of his or her rights and any services which may be available.

(2) Police assistance to a victim under sub-section (1) (c) consists of issuing a medical form to the victim and, where necessary, sending the victim to a medical facility.

(3) A victim of domestic violence who is assisted by the Police to obtain medical treatment under sub-section (1) (c), shall be entitled to free medical treatment and a free medical report within fourteen days of the issuance of the medical form, in all public medical facilities.



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

### **23. Arrest by Police**

(1) A Police Officer may arrest a person for domestic violence with a warrant issued in pursuance of this Act or without a warrant.

(2) A Police Officer may arrest a person for domestic violence without a warrant where –

- (a) an act of domestic violence is committed in the presence of the Police officer;
- (b) the Police officer is obstructed by the person in the execution of Police duties; or
- (c) the person is held in lawful custody under this Act and has escaped or attempts to escape from such custody.

(3) A Police Officer may arrest a person without warrant upon reasonable grounds of suspicion that –

- (a) he or she has committed an offence of domestic violence; or
- (b) he or she is about to commit an offence of domestic violence; and
- (c) there is no other way to prevent the commission of the offence.

(4) A Police Officer may arrest a person without a warrant if the officer has reasonable cause to believe that the person has contravened or is contravening a protection order issued under section 25, 26, or 27.

### **24. Arrest by persons other than Police without warrant**

(1) A person may arrest another person without a warrant if that other person commits an act of domestic violence in his or her presence.

(2) A person may arrest another person without a warrant where the person has reasonable suspicion that the other

person has committed an offence of domestic violence.

(3) A person who effects an arrest under sub-section (1) or (2) shall within a reasonable time, being not more than twelve hours after the arrest, hand over the person arrested to the Police.

## **PART VI – PROTECTION ORDERS**

### **25. Application for protection order**

(1) A person may apply to a court for a protection order to prevent –

- (a) a respondent
- (b) an associated respondent; or
- (c) both a respondent and an associated respondent,

from carrying out a threat of domestic violence against a complainant or any other person or to prevent the respondent, an associated respondent, or both from further committing acts which constitute domestic violence against a complainant or any other person.

(2) The application may be filed in a court situated where-

- (a) the applicant or complainant resides, carries on business or is employed;
- (b) the respondent resides, carries on business or is employed; or
- (c) the act of domestic violence occurred or is occurring or is likely to occur.

(3) The application may be made *ex-parte*, unless the court otherwise orders it to be on notice.

(4) A court before which criminal proceedings in relation to domestic violence is pending may, on its own motion or on an application by the victim, issue a protection order in respect of the victim.

## **26. Conduct of proceedings**

(1) Proceedings for a protection order shall be held in chambers in the presence of the parties, their legal practitioners and any other person permitted by the court to be present.

(2) Notwithstanding sub-section (1), where the court is of the opinion that the presence of the respondent is likely to have adverse effect on the victim or a witness, the court may take such steps as it considers necessary to separate the respondent from the victims or the witness, without sacrificing the integrity of the proceedings.

(3) Subject to sub-section (3) of section 25, an application for protection order shall be heard by the court within fourteen days of the filing of the application.

(4) The court may request a social enquiry report on any of the parties to the proceedings and the report shall be prepared and submitted to the court by a social worker, probation officer or other person appointed by the court, as appropriate.

(5) The report shall contain details of the circumstances of the domestic violence, an assessment of the effect of the violence and any other information considered expedient by the social worker, probation officer or other person appointed by the court.

## **27. Interim protection order**

(1) Where an application is made ex-parte for a protection order, the court shall issue an interim protection order if it considers the order to be in the best interest of the applicant.

(2) In determining whether it is in the best interest of the applicant to issue an interim protection order, the court shall take into account –

- (a) the risk of harm to the applicant or a relation or friend of the applicant if the order is not made immediately;
- (b) the likelihood that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately; or
- (c) whether there is reason to believe that the respondent is deliberately evading service of notice of the proceedings

and the applicant, or any person in a domestic relation with the respondent, will be prejudiced by the delay involved in effecting service.

(3) An interim protection order shall be for a period of three months and the court may, where it thinks fit, extend it for a period not exceeding three months.

(4) Where the respondent is not already before the court, the court shall, in making an interim protection order, summon the respondent to appear within the period of three months referred to in sub-section (3) to show cause why the interim order should not be made final.

(5) If the respondent fails to appear before the court in accordance with sub-section (4), the order shall become final.

(6) Where an application is made on notice to the court for protection order and the court is of the opinion that –

- (a) the respondent is committing, has committed or is likely to commit an act of domestic violence; and
- (b) the applicant will suffer significant harm if a protection order is not issued,

the court may issue an interim protection order pending the consideration of the order applied for.

(7) Where the court grants an interim protection order, it shall apply the provisions contained in sections 28(1) and 30(1) and may apply any of the provisions contained in sections 28(2) and 30(2).

## **28. Effect of protection**

(1) The court may issue a protection order to prohibit a respondent from committing or threatening to commit an act of domestic violence personally or otherwise against an applicant or a relation or a friend of the applicant.

(2) Subject to personal law where appropriate, the protection order may prohibit the respondent from –

- (a) physically assaulting or using physical force against the applicant or any relation or friend of the applicant;

- (b) forcibly confining or detaining the applicant or any relation or friend of the applicant;
- (c) depriving the applicant access to adequate food, water, clothing, shelter or rest;
- (d) forcing the applicant to engage in any sexual contact;
- (e) engaging in any sexual conduct that abuses, humiliates, or degrades the applicant or otherwise violates the applicant's sexual integrity;
- (f) depriving or threatening to deprive the applicant of –
  - (i) economic or financial resources to which the applicant is entitled by law, including house mortgage repayments or rent payments in respect of shared accommodation; and
  - (ii) household chattels required by the applicant as a matter of necessity;
- (g) contacting the applicant at work or other places frequented by the applicant;
- (h) contacting the applicant by telephone or any other form of communication;
- (i) disposing of or threatening to dispose of movable or immovable property in which the applicant has a material interest;
- (j) destroying or damaging, or threatening to destroy or damage property in which the applicant has a material interest;
- (k) hiding or hindering the use of property in which the applicant has a material interest;
- (l) threatening to abuse the applicant;
- (m) harassing the applicant;
- (n) entering the applicant's residence without consent where the parties do not share the same residence;

- (o) emotionally, verbally or psychologically abusing the applicant;
- (p) coming within fifty metres of the applicant and vice versa; or
- (q) doing any act which the court considers is not in the best interest of the applicant.

### **29. Duration of final protection order**

A final protection order issued by the court shall not exceed twelve months in the first instance but may for good cause shown, be extended, modified or rescinded by the court on a motion by a party to the original proceeding.

### **30. Conditions of protection order**

(1) A protection order shall include a provision restraining the respondent from subjecting the applicant to domestic violence.

(2) A protection order may, at the request of the applicant or on the court's own motion, include any or all of the following-

- (a) a provision which –
  - (i) binds the respondent to be of good behavior,
  - (ii) directs the respondent to seek counseling or other rehabilitative service,
  - (iii) directs the respondent to relocate and continue to pay any rent, mortgage payment and maintenance to the applicant, or
  - (iv) forbids the respondent to be, except under conditions specified in the order, at or near places frequented by the applicant or by any child or other person in the care of the applicant;
- (b) a provision directing the respondent to surrender any firearms or other specified weapon in the possession of the respondent, which may also include, if appropriate –

- (i) a provision suspending any firearm licence in the name of the respondent for the duration of the protection order;
- (ii) a provision authorising the Police to search for and seize any weapon at any specified place where there is probable cause to believe that the weapon may be located;
- (c) a provision restraining the applicant, respondent or both from taking, converting, damaging, or otherwise dealing in property in which the other party may have an interest or a reasonable expectation of use;
- (d) a provision temporarily directing the respondent to make periodic payments in respect of the maintenance of the applicant, and of any child of the applicant, if the respondent is legally liable to support the applicant or the child, as an emergency measure where no such maintenance order is already in force, together with such other emergency monetary reliefs as is appropriate;
- (e) a provision granting temporary sole custody –
  - (i) of a child of the applicant to any appropriate custodian other than the respondent; or
  - (ii) of any child of the applicant or any child in the care of the applicant to the applicant or to another appropriate custodian if the court is satisfied that that is reasonably necessary for the safety of the child in question;
- (f) a provision temporarily –
  - (i) forbidding contact between the respondent and any child of the applicant;
  - (ii) specifying that contact between the respondent and a child of the applicant shall take place only in the presence and under the supervision of a social worker or a family member designated by the court for the purpose; or
  - (iii) allowing such contact only under specified

conditions designed to ensure the safety of the applicant, any child who may be affected, and any other family member, if the court is satisfied that that is reasonably necessary for the safety of the child in question;

- (g) a provision ordering the relocation of the applicant to a safe house to be provided by the Minister and compelling the respondent to pay rent for the period the applicant resides in such a safe house if the court is satisfied that that is reasonably necessary for the safety of the applicant or any child or person in the care of the applicant;
- (h) any other provisions that the court thinks reasonably necessary to ensure the safety of the applicant or any other person who is affected.

### **31. Reference to Children's Court**

(1) Where there is a need for special protection for a child, the court may refer matters concerned with the temporary custody of a child in a situation of domestic violence to a Children's Court.

(2) Any matter connected with domestic violence in which a child is the perpetrator shall be referred to a Children's Court.

### **32. Extension of protection order to other persons**

A court may extend a protection order to any person specified in the order other than the applicant if the court is satisfied that –

- (a) the respondent is engaging in or has engaged in conduct, which, if the person specified in the order, (referred to hereafter as the "specified person"), were or had been in a domestic relationship with the respondent, the conduct would amount to domestic violence against the specified person;
- (b) the respondent's conduct towards the specified person is due, in whole or in part to the applicant's relationship with the specified person; or
- (c) the extension of the protection order is necessary for the protection of the specified person.



### 33. Occupation order

(1) Where the court in issuing a protection order considers it expedient to issue an occupation order, the court may issue an order requiring the respondent to vacate the matrimonial home or other specified home.

(2) The court shall issue the order after the consideration of a social enquiry report prepared by a social worker, probation officer or other person appointed by the court, as appropriate.

(3) The court shall consider the effect of the order or omission of the order on the health, education and development of the family where the complainant and the respondent are in a marital relationship.

(4) A landlord shall not evict an applicant solely on the basis that the applicant is not a party to a lease, where a residence is rented by a respondent but exclusive occupation is given to the applicant by the court.

(5) In furtherance of sub-section (4), the landlord shall provide the details of the lease to the applicant on request.

### 34. Power to discharge protection order

(1) A court may discharge a protection order on an application on notice by an applicant or a respondent.

(2) The discharge of the order may occur even though the order-

(a) applies for the benefit of a specified person in the order, other than the applicant; and

(b) applies against an associated respondent.

(3) Upon the discharge of an order under sub-section (2), it shall cease to have effect for the benefit of any specified person or associated respondent as if either of them had applied for or been granted a discharge of the order.

(4) Where a discharge order applies for the benefit of a specified person or against an associated respondent, either of them may apply for the order to be discharged in so far as it applies to them.

(5) An application may be made under this section for the discharge of an interim order in which case the court shall fix a hearing date as soon as practicable and no later than thirty days after the filing of the application unless there are special circumstances.

### **35. Contravention of protection order**

(1) A person who contravenes a protection order commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dalasis or to imprisonment not exceeding three years or to both the fine and imprisonment.

(2) A person convicted of a subsequent offence of contravening a protection order is liable on conviction to a fine not exceeding two hundred thousand dalasis or to imprisonment not exceeding five years or to both the fine and imprisonment.

(3) A person making a complaint under section 20, who-

(a) with intent to induce a Police Officer to perform any act or exercise any power provided in this Act in relation to a contravention of a protection order; and

(b) intentionally gives false information to a Police Officer or fails to provide information to the Police Officer in order to induce him or her to do any act or exercise any power under this Act,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand dalasis or to imprisonment not exceeding one year or to both the fine and imprisonment.

## **PART VII – PROCEEDINGS**

### **36. Settlement out of Court**

(1) Where in a criminal trial in respect of domestic violence which is not aggravated –

(a) the Complainant expresses the desire to have the matter settled out of court, the court shall refer the case for settlement by any alternative dispute resolution method; and

(b) the court is of the opinion that the case can be amicably settled, it may, with the consent of the Complainant refer the case for settlement by any alternative dispute resolution method.

(2) Where any case is referred to settlement under sub-section (1), the court shall, in addition –

(a) refer the Complainant and the offender for counseling;

(b) where necessary, require the offender to receive psycho-social care; and

(c) after consultation with the Department of Social Welfare appoint a Social Worker to observe and report on the subsequent conduct of the offender to the court.

(3) Where a Social Worker reports that the offender has engaged in any act of domestic violence after the settlement, the offender shall be brought before the court and prosecuted under section 21.

(4) In any criminal trial in respect of domestic violence which is aggravated, the court shall not consider or approve any settlement of the matter out of court, whether in accordance with sub-sections (1) (2) and (3) or not.

### **37. Modification or cancellation of protection order**

An applicant or a respondent may apply to the court which granted a protection order for the modification or cancellation of the protection order

### **38. Publication of proceedings**

(1) Except with the leave of the court, a person shall not publish a report of the proceedings under this Act other than in criminal proceedings.

(2) In the reporting of criminal proceedings under sub-section (1), the reporter shall protect the identity of the victim.

(3) A person who contravenes sub-section (1) or (2) commits an offence and is liable on conviction to a fine of not exceeding fifty thousand dalasis or to imprisonment not exceeding twelve months or to both the fine and imprisonment.

### **39. Criminal charges and protection**

The institution of criminal charges arising from acts of domestic violence shall be in addition to and shall not affect the rights of an applicant to seek a protection order under this Act.

### **40. Civil claim for damages**

Proceedings under this Act shall be in addition to, and shall not derogate from the right of a person to institute a civil action for damages.

### **41. Public education**

The Minister shall for the purpose of this Act, provide for public education on domestic violence and the contents of this Act.

## **PART VIII - MISCELLANEOUS**

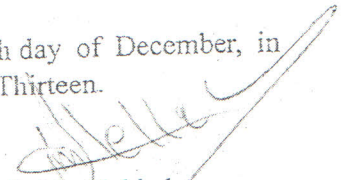
### **42. Regulations**

(1) The Minister may make regulations providing for –

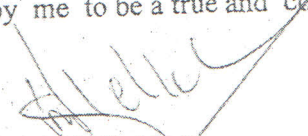
- (a) the training of the Police, security personnel and court officials on gender based violence;
- (b) the education, counseling and reintegration of victims and perpetrators of domestic violence;
- (c) shelter for victims of domestic violence;
- (d) enhancement of social welfare services for victims of domestic violence;
- (e) the modalities for the provision of free medical treatment for victims of domestic violence;
- (f) guidelines to protect persons from sexual harassment and to provide sanctions for perpetrators; and
- (g) the effective implementation of this Act.

(2) The Chief Justice may in consultation with the Minister, prescribe forms for the purposes of this Act.

PASSED in the National Assembly this 17th day of December, in  
the year of Our Lord Two Thousand and Thirteen.

  
D. C. M. Kebbeh  
*Clerk of the National Assembly*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill  
which has passed in the National Assembly, and found by me to be a true and correct  
copy of the said Bill.

  
D. C. M. Kebbeh  
*Clerk of the National Assembly.*