

OBJECTS AND REASONS

This Bill would amend the *Domestic Violence (Protection Orders) Act*, Cap. 130A to

- (a) make provision for a comprehensive definition of the term “domestic violence”;
- (b) extend the classes of persons who are considered to be victims of domestic violence;
- (c) ensure that victims of domestic violence receive the appropriate counselling or therapy;
- (d) facilitate the enrolment of perpetrators of domestic violence in the appropriate rehabilitative programmes;
- (e) extend the classes of persons who may intervene in applications before the Court on behalf of victims of domestic violence;
- (f) establish the duties and powers of members of the Police Force in relation to allegations of domestic violence, including the power to issue emergency protection orders;
- (g) maximise the safety and protection of victims and ensure that perpetrators of domestic violence are held accountable, and for related matters.

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 130A
3. Amendment of section 3 of Cap. 130A
4. Amendment of section 4 of Cap. 130A
5. Amendment of section 5 of Cap. 130A
6. Amendment of section 6 of Cap. 130A
7. Amendment of section 7 of Cap. 130A
8. Insertion of sections 11A to 11E into Cap. 130A
9. Amendment of section 12 of Cap. 130A
10. Amendment of section 14 of Cap. 130A
11. Amendment of section 16 of Cap. 130A
12. Insertion of section 19A into Cap. 130A
13. Amendment of the Schedule to Cap. 130A

SCHEDULE

BARBADOS

A Bill entitled

An Act to amend the *Domestic Violence (Protection Orders) Act*, Cap. 130A to define domestic violence and to make greater provision for the safety of victims of domestic violence and the accountability of perpetrators of domestic violence.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Domestic Violence (Protection Orders) (Amendment) Act, 2016*.

Amendment of section 2 of Cap. 130A

2. *Section 2 of the Domestic Violence (Protection Orders) Act, in this Act referred to as the principal Act is amended by*

- (a) deleting the definitions of “child”, “harassment” and “spouse”, and*
- (b) inserting in the appropriate alphabetical order the following definitions:*

“child” means a person under 18 years of age who is not married and is considered to be in a domestic relationship by virtue of continued residence or a relationship of consanguinity or affinity with a perpetrator or victim of domestic violence and includes an adopted child, a stepchild and a ward;

“child abuse” means any act of domestic violence perpetrated against a child and includes causing or permitting a child to witness, hear or be exposed to acts of domestic violence;

“cohabitational relationship” means a relationship where persons who are not legally married are living together in the same household as husband and wife;

“dependant” means a person who, by some physical, mental or other disability is wholly or partly maintained by a perpetrator or victim of domestic violence;

“domestic relationship” means the relationship between a perpetrator of domestic violence and victim who is a spouse, former spouse, child, dependant or other person who is considered to be a relative

of the perpetrator by virtue of consanguinity or affinity and includes cohabitational and visiting relationships;

“domestic violence” means the wilful infliction or threat of infliction of harm by one person in a domestic relationship upon another person in that relationship and includes child abuse, emotional abuse, financial abuse, physical abuse and sexual abuse;

“emotional abuse” means any act by a perpetrator which causes psychological pain or injury to a victim and includes harassment, the use of threatening words or behaviour and withholding from a victim, access to the victim’s child, parent or guardian;

“financial abuse” means the exercise of control by a perpetrator over a victim’s access to financial resources through coercion, deception or intimidation, the effect of which is to hinder the victim’s financial independence or ability to maintain a child or dependant or to ensure financial dependence on the perpetrator and includes exploitation of the victim’s financial resources and withholding the financial support necessary to maintain a victim, child or dependant;

“harassment” includes

- (a) intimidation of a victim by a perpetrator through
 - (i) persistent verbal abuse;
 - (ii) threats of physical violence;
 - (iii) malicious damage to the victim’s property;
 - (iv) persistently contacting the victim by any means, including via e-mail, facsimile, post, telephone or text message; or
 - (v) any other means;
- (b) persistently following a victim about from place to place;

- (c) hiding clothes or other property owned or used by a victim or depriving the victim of the use thereof;
- (d) approaching, besetting or watching the house or other place where a victim resides, works, carries on business, studies or happens to be;
- (e) publishing on the internet or by any other mass medium, statements or other material relating to a victim without the victim's consent;
- (f) keeping a victim or the victim's communications under surveillance without the victim's knowledge or consent;
- (g) any other act, the purpose of which is to intimidate, scare or cause a victim to apprehend harm;

“perpetrator” means a person who commits an act of domestic violence;

“person at risk” means a person named in an emergency protection order for whose safety the order is issued;

“physical abuse” means any act or omission by a perpetrator which causes pain or injury to the body of a victim;

“respondent” means a person against whom an application for a protection order is made;

“sexual abuse” means the performance by a perpetrator of a sexual act on a victim by the use of force, threats, fear, manipulation or guile and includes the actual or attempted commission of any of the offences stated in Part I of the *Sexual Offences Act*, Cap. 154;

“spouse” means a party to a marriage or cohabitational relationship;

“subordinate police officer” has the meaning assigned to it by section 2 of the *Police Act*, Cap. 167;

“victim” means a person against whom an act of domestic violence is committed and includes a child;

“visiting relationship” means a relationship where the parties do not live together in the same household, but in which there are romantic, intimate or sexual relations.”.

Amendment of section 3 of Cap. 130A

3. *The principal Act is amended by deleting section 3 and substituting the following:*

“Protection order

3.(1) Where on an application made in accordance with section 4, the Court is satisfied on a balance of probabilities that a person has engaged in or has threatened to engage in behaviour that constitutes domestic violence, the Court may make an order, in this Act referred to as a protection order, restraining the person from engaging in that conduct or similar conduct.

(2) Subject to subsection (3), on an application for a protection order under subsection (1), the Court may, where it considers that it is necessary to do so in order to ensure the safety of the victim pending the hearing and determination of the application, make an interim protection order before considering the application.

(3) The Court shall not make an interim protection order under subsection (2), unless the application for a protection order is supported by oral evidence on oath or by evidence on affidavit given by the complainant.

(4) Subject to sections 16 (1) and 18(3), a protection order made by the Court under subsection (1) may be for such period of time as the Court considers necessary, but may, on the application of the complainant or the respondent, be varied or revoked.

(5) The Court may make an interim protection order at any time before or during the hearing of an application for an order under subsection (1), whether or not the respondent is present at the proceedings or has been given notice thereof.

(6) Where an interim protection order is made by the Court, the Court shall fix a date for further consideration of the application, which shall be no later than the date on which the order will expire.

(7) An interim protection order shall be served on the respondent as soon as possible after it is made and the respondent shall be summoned to appear before the Court for a further hearing of the matter, at which time the Court may

- (a) fix a new date for the hearing of the substantive application and extend the interim protection order until the date fixed for the hearing of the substantive application or until such time as the Court considers necessary, which shall not exceed a period of 28 days from the date of filing of the application;
- (b) revoke the interim protection order; or
- (c) hear the substantive application and make a protection order under subsection (1).”.

Amendment of section 4 of Cap. 130A

4. *The principal Act is amended by deleting section 4 and substituting the following:*

“Application for protection order

4.(1) An application for a protection order shall be made in accordance with Form 1 as set out in the Schedule to this Act by

- (a) the spouse of the person against whom the order is sought where an act of domestic violence was committed against that spouse or a child;
- (b) any other person in a domestic relationship with the person against whom the order is sought, where an act of domestic violence was committed against that person or a child;
- (c) the Commissioner of Police on behalf of a victim of domestic violence;
- (d) a person other than the persons mentioned in paragraphs (a) to (c), as an agent for a victim of domestic violence, including a Social Worker, Probation Officer or representative of a non-governmental organisation which renders support services to victims of domestic violence, where that person has obtained,
 - (i) leave of the Court; and
 - (ii) in the case of a victim who is mentally capable of providing consent and over the age of 18 years, the consent of the victim; or
- (e) a Child Care Officer or Welfare Officer on behalf of a child or a person who is mentally handicapped, against whom an act of domestic violence was committed.

(2) The person against whom the order is sought shall be the respondent to the application.

(3) Where an application for a protection order has been made to the Court under subsection (1), the Court shall issue a copy of the application together with a summons, in accordance with Form 2 set

out in the Schedule, to the respondent forthwith to be served personally on the respondent.

(4) Where it appears to the Court that it is not reasonably practicable to serve the respondent personally with a copy of an application for a protection order, the Court may

- (a) make an order for substituted service, including service by
 - (i) registered post to the last known address of the respondent;
 - (ii) leaving the document at the last known address of the respondent; or
 - (iii) advertisement in 2 daily newspapers printed and published in Barbados, which service is deemed to have been effected on the date of the later advertisement, the cost of which shall be borne by the complainant; or
- (b) order that the copy of the application be served by such other means as the Court thinks just.

(5) Notwithstanding anything in this Act, any document required to be served under this Act may be served by an attorney-at-law or his agent.

(6) Where a complainant is a person referred to in paragraph (c) or (d) of subsection (1), a protection order shall not be made in respect of the application unless notice of the application in accordance with Form 2 of the Schedule was given to the victim.

(7) Where it is proved by evidence on oath to the satisfaction of the Court that a summons and the copy of the application were served on the respondent in accordance with subsection (3) or (5) within what

appears to the Court to be a reasonable time, and the respondent fails to appear at the time and place appointed for the hearing, the Court may

- (a) proceed to hear and determine the matter in the absence of the respondent; or
- (b) where the Court is satisfied, having regard to the information before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.

(8) Where the respondent is present but the complainant or person on whose behalf a complaint is made or their attorney-at-law fails to appear at the time and place appointed for hearing, the Court may

- (a) where it is satisfied that there is a reasonable excuse for the absence of the complainant or person on whose behalf the complaint is made or their attorney-at-law, adjourn the hearing of the matter until such time and on such terms as it considers just; or
- (b) dismiss the application and make an order as to costs.

(9) An application for a protection order shall be heard within 2 days after the date of service of the application or as soon as practicable thereafter. ”.

Amendment of section 5 of Cap. 130A

5.*Section 5 of the principal Act is amended by deleting subsection (1) and substituting the following:*

“(1) Evidence on an application for a protection order may be given on affidavit in accordance with Form 2A as set out in the Schedule to this Act”.

Amendment of section 6 of Cap. 130A

6. *The principal Act is amended by deleting section 6 and substituting the following:*

“Form of protection orders

6.(1) Subject to this Act, a protection order may include provisions restraining the respondent from

- (a) being on the premises on which the complainant for the protection order or the child in respect of whom the order was made, resides;
- (b) being on the premises that are the place of education or work of the complainant or the place of education or work of the child in respect of whom the order was made;
- (c) being in a specified locality, being a locality in which premises as mentioned in paragraph (a) or (b) or any other premises the Court deems it necessary to specify, are situated;
- (d) approaching within a specified distance of the complainant or the child in respect of whom the order was made;
- (e) entering or remaining on the premises, while intoxicated or under the influence of a drug, where the respondent continues to reside with the complainant or the child in respect of whom the order was made;
- (f) causing another person to engage in the conduct referred to in paragraph (a) or (c) of subsection (3).

- (2) A protection order may
- (a) require the respondent to
- (i) leave the premises referred to in paragraph (a) of subsection (1);
 - (ii) continue any legal or other obligation the respondent may have to pay the rent, mortgage, utilities or taxes of the premises referred to in that sub-paragraph where the respondent is asked to leave under sub-paragraph (i);
 - (iii) allow the complainant to enter and remain on the premises referred to in paragraph (c) of subsection (1);
 - (iv) pay compensation for pecuniary loss suffered by the complainant as a result of the acts of domestic violence committed by the respondent, including medical expenses, legal expenses, loss of earnings, the cost of accommodation, the cost of transportation or any other expense reasonably incurred by reason of injury to the complainant's person or property;
 - (v) make payments to the complainant for the maintenance of a dependant of the complainant and respondent;
 - (vi) where no order is in force under Part III of the *Maintenance Act*, Cap. 216 or Part II of the *Minors Act*, Cap. 215 for the maintenance of a child of the respondent or Part VI of the *Family Law Act*, Cap. 214 for the maintenance of the complainant or a child of the respondent, make interim payments to the complainant for the benefit of the complainant or a child of the respondent until such time as an order is made under the *Maintenance Act*, Cap. 216, the

Minors Act, Cap. 215 or the *Family Law Act*, Cap. 214;

- (vii) where no order is in force under Part III of the *Maintenance Act*, Cap. 216 with respect to the legal custody of a child of the respondent or Part II of the *Minors Act*, Cap. 215 or Part V of the *Family Law Act*, Cap. 214 with respect to custody of or access to a child of the respondent, grant custody to the complainant or such other person as the Court specifies, until such time as an order is made under the *Maintenance Act*, Cap. 216, the *Minors Act*, Cap. 215 or the *Family Law Act*, Cap. 214;
 - (viii) surrender to the police, for the duration of an interim or final protection order, any licences or permits issued under the *Firearms Act*, Cap. 179 and any ammunition, firearms or other weapons in the possession or control of the respondent, whether or not such weapons were used to commit an act of domestic violence; or
- (b) specify conditions subject to which the respondent may be on premises or in a locality specified in the order.
- (3) A protection order that includes a provision mentioned in paragraph (a) of subsection (1) may also include a provision
- (a) restraining the respondent from taking possession of personal property of either the complainant or the respondent, being property that is reasonably needed by a member of the respondent's household;
 - (b) directing the respondent to give possession of such property as is specified in the order, to a specified member of the respondent's household;

- (c) prohibiting the respondent from damaging property of the complainant or a child of the complainant or respondent; or
 - (d) prohibiting the respondent from causing another person to engage in the conduct referred to in paragraph (a) or (c).
- (4) A protection order shall, in each case, provide that the respondent against whom the order was sought, attend the Family Services Division of the Welfare Department or such other agency as the Court specifies, for appropriate counselling and therapy.
- (5) Where an order referred to in subsection (4) is made against a male respondent, the Court shall direct that the respondent enrol in an appropriate programme that is facilitated by the Ministry responsible for Social Care.
- (6) A protection order may, in each case, provide that the complainant or any other person, including a child, in respect of whom the order was made, attend the Family Services Division of the Welfare Department or such other agency as the Court specifies, for appropriate counselling and therapy.
- (7) Where a protection order includes provisions under subsections (4), (5) or (6), the Family Services Division of the Welfare Department, the coordinators of any programme that is facilitated by the Ministry responsible for Social Care or any other agency specified by the Court, shall submit to the Court a report setting out the following:
 - (a) the dates on which counselling took place;
 - (b) the nature of the counselling and therapy carried out; and
 - (c) the response given to the counselling and therapy by the parties to the order.
- (8) The report referred to in subsection (7) shall be submitted to the Court not later than one month before the expiration of the protection order or at such other time as the Court specifies.

(9) For the purposes of this section “complainant” means a person against whom domestic violence was committed or who was harassed.”.

Amendment of section 7 of Cap. 130A

7. *Section 7 of the principal Act is amended in subsection (1) by deleting paragraph (c).*

Insertion of sections 11A to 11E into Cap. 130A

8. *The principal Act is amended by inserting immediately after section 11 the following as sections 11A to 11E:*

“Duties of members of the Police Force

11A.(1) A member of the Police Force shall respond to every complaint alleging domestic violence.

(2) The Commissioner of Police shall keep a Domestic Violence Register for the purpose of recording information obtained by a member of the Police Force who responds to a complaint alleging domestic violence.

(3) A member of the Police Force who responds to a complaint alleging domestic violence shall complete a report in accordance with Form 6 set out in the Schedule to this Act and record the information in a Domestic Violence Register to be maintained by the Commissioner of Police.

(4) A member of the Police Force shall, as soon as is practicable after completing a report in accordance with subsection (3), provide the person making the complaint with a copy of the report.

(5) Where practicable, when responding to a complaint alleging domestic violence, a member of the Police Force shall render assistance to a victim of domestic violence by

- (a) seeking medical attention for a victim who has suffered injury;
- (b) accompanying the victim onto premises for the purpose of retrieving personal property;
- (c) ensuring the welfare and safety of children and other persons who are on the premises; and
- (d) preventing further breaches of the law.

(6) A member of the Police Force shall, as soon as is practicable after receiving a complaint alleging domestic violence, verbally inform the victim of domestic violence of the victim's rights and provide a printed copy of those rights as set out in Form 7 of the Schedule to this Act.

(7) A member of the Police Force shall, pursuant to an order issued under section 11B or an order of the Court, seize any ammunition, firearms or other weapons in the possession or control of the perpetrator, whether or not those weapons were used to commit an act of domestic violence.

Power to issue emergency protection order

11B.(1) Where a member of the Police Force exercises his power of arrest in accordance with section 12(4), a subordinate police officer may issue an emergency protection order in accordance with Form 8 as set out in the Schedule to this Act, where he has reasonable cause to believe that the issue of an order is necessary to ensure the safety of a person at risk.

(2) A subordinate police officer may issue an emergency protection order under subsection (1) without the consent of the person at risk.

- (3) In determining whether to issue an emergency protection order under subsection (1), the subordinate police officer shall consider
- (a) whether the person at risk has immediate access to the Court to make an application in accordance with section 4;
 - (b) the likelihood that the perpetrator will continue to commit acts of domestic violence against the person at risk;
 - (c) the welfare of any children residing with the perpetrator or the person at risk;
 - (d) any hardship that may be caused if the order is issued; and
 - (e) any other matter that, in the circumstances of the case, the member of the Police Force considers relevant.

Service of emergency protection order

11C.(1) Where an emergency protection order is issued, it shall be served personally by a member of the Police Force on the perpetrator as soon as is reasonably practicable after the order is issued.

(2) An order served under subsection (1) shall remain in force until such time as an order is made by the Court pursuant to an application under section 4, but no longer than 7 days from the date on which it is issued.

(3) A member of the Police Force who serves an emergency protection order shall explain to the perpetrator in a language that he understands,

- (a) the purpose, terms, duration and effect of the order; and
- (b) the consequences that may follow if the perpetrator fails to comply with the terms of the order.

(4) A member of the Police Force shall, as soon as is reasonably practicable after serving an emergency protection order, notify the

person at risk of the emergency protection order and the purpose, terms, duration and effect of that order.

Effect of emergency protection order

11D. Where an emergency protection order is served on a perpetrator, the perpetrator shall immediately cease to engage in behaviour that constitutes harassment or domestic violence towards the person at risk and, for the duration of the order, shall

- (a) vacate any premises occupied by the person at risk; and
- (b) surrender to a member of the Police Force any licences or permits issued under the *Firearms Act*, Cap. 179 and any ammunition, firearms or other weapons in that person's possession or control, whether or not such weapons were used to commit an act of domestic violence.

Breach of emergency protection order

11E.(1) Where an emergency protection order is issued and served in accordance with sections 11B and 11C and the perpetrator contravenes the order in any respect, the perpetrator is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or to imprisonment for a term of 6 months or to both.

(2) A person who is arrested for contravention of an emergency protection order shall be brought before the Court within a period of 24 hours beginning at the time of the arrest, or as soon as reasonably practicable thereafter.”.

Amendment of section 12 of Cap. 130A

9. *Section 12 of the principal Act is amended by*

- (a) *deleting subsections (3) and (4) and substituting the following:*

“(3) Where a power of arrest is attached to an order under subsection (1), a member of the Police Force may arrest without a warrant, a person whom he has reasonable cause to suspect is in breach of such order, by reason of that person’s use of violence or unauthorised entry into the premises or areas referred to in section 6(1).

(4) A member of the Police Force may arrest without a warrant a person whom he has reasonable cause to suspect has committed or is about to commit an act of domestic violence, where a failure to act immediately may result in serious physical injury or death.”; and

(b) *inserting immediately after subsection (4) the following as subsection (5):*

“(5) Where a person is arrested under subsection (3) or (4), he shall be brought before the Court within the period of 24 hours beginning at the time of his arrest, or as soon as reasonably practicable thereafter.”.

Amendment of section 14 of Cap. 130A

10. *The principal Act is amended by deleting section 14 and substituting the following:*

“Power to enter premises

14.(1) A member of the Police Force may, without a warrant, enter any premises for the purpose of giving assistance to anyone present

- (a) if he has reasonable grounds to suspect that an emergency protection order, an interim protection order or a final protection order is being breached; or
- (b) if, upon the invitation of a person resident at the premises or independently, he has reasonable grounds to suspect that a

person on the premises has suffered or is in imminent danger of suffering physical injury at the hands of some other person.

(2) Where a member of the Police Force exercises a power of entry under subsection (1), he shall, as soon as is reasonably practicable after exercising the power, submit to the Commissioner of Police through the Station Sergeant for the district in which the incident occurred, a report which shall include

- (a) the reason for entering the premises without a warrant;
- (b) the offence being committed or about to be committed;
- (c) the manner in which the investigation was conducted; and
- (d) the measures taken to ensure the safety and protection of the person at risk of injury.”.

Amendment of section 16 of Cap. 130A

11. *Section 16 of the principal Act is amended by deleting subsections (3) and (4).*

Insertion of section 19A into Cap. 130A

12. *The principal Act is amended by inserting immediately after section 19 the following as section 19A:*

“Obligation to report child abuse

19A.(1) A person who attends to, examines or otherwise interacts with a child and is aware or has reasonable cause to suspect that the child is a victim of domestic violence, shall immediately notify the Child Care Board or a member of the Police Force of that suspicion.

- (2) A person who
- (a) is aware or has reasonable cause to suspect that a child is a victim of domestic violence and fails to notify the Child Care Board or a member of the Police Force; or
 - (b) knowingly and maliciously makes a false, inaccurate or misleading statement to the Child Care Board or a member of the Police Force, alleging that a child is a victim of domestic violence,
- is guilty of an offence and liable on summary conviction to a fine of \$5 000 or imprisonment for a term of 12 months or to both.”.

Amendment of the Schedule to Cap. 130A

13. *The principal Act is amended by*

- (a) *deleting Form I of the Schedule and substituting Form I as set out in the Schedule to this Act;*
- (b) *inserting immediately after Form 2, Form 2A as set out in the Schedule to this Act; and*
- (c) *inserting immediately after Form 5, Forms 6, 7 and 8 as set out in the Schedule to this Act.*

SCHEDULE

(Section 13)



Domestic Violence (Protection Orders) Act
Cap. 130A

FORM 1

(Section 4(1))

**IN THE MAGISTRATE'S COURT FOR DISTRICT
APPLICATION FOR PROTECTION ORDER**

Between

A. B. of _____ Complainant

and

C. D. of _____ Respondent

I _____ of _____
Name of Complainant *Address of Complainant*

_____ , being the victim/the appointed representative

of _____ , a party to a domestic relationship with the
Name of Victim

respondent, hereby apply for a protection order on the ground(s) that:

Complainant

Taken and sworn before me this _____ day of _____.

(Signature)
Magistrate for District

Schedule - (Cont'd)



Domestic Violence (Protection Orders) Act
Cap. 130A

FORM 2A

(Section 5(1))

IN THE MAGISTRATE'S COURT FOR DISTRICT

AFFIDAVIT

I _____ of, _____
Name of Deponent *Address of Deponent*

_____, _____
Occupation of Deponent

make oath and say as follows:

1. I am the Complainant herein.
2. The facts and matters deposed to in this Affidavit are made of my own knowledge and I certify that I believe that the facts stated in this Affidavit are true.
3. My relationship with the Respondent is _____.
4. The circumstances which gave rise to this complaint are that:

5. I made a complaint/A complaint was made on my behalf by
_____ at District _____ Police Station.
Name of Complainant *District Name*

A copy of a report dated _____ is annexed hereto and marked
Date of Report
_____.

Sworn to by the Deponent _____
Name of Deponent

at _____ on the _____ day of _____.

Before me

Justice of the Peace/Magistrate for District

Schedule - (Cont'd)



Domestic Violence (Protection Orders) Act
Cap. 130A

FORM 6

(Section 11A(3))

DOMESTIC VIOLENCE POLICE REPORT

District of station: _____

Date: _____ Time: _____

Diary Reference: _____

Investigating Officer: _____
(Rank/Number/Name)

Name of complainant: _____
(Surname/First Name/Middle Name(s))

Address of complainant: _____

Relationship of complainant to victim: _____

Relationship of victim to perpetrator: _____

Name of victim: _____
(Surname/First Name/Middle Name(s))

Address of victim: _____

Sex: _____ Age: _____ Occupation: _____

Schedule - (Cont'd)

FORM 6 - (Cont'd)

DOMESTIC VIOLENCE POLICE REPORT - (Cont'd)

Name of perpetrator: _____
(Surname/First Name/Middle Name(s))

Address of perpetrator: _____

Sex _____ Age: _____ Occupation: _____

Name of witness: _____
(Surname/First Name/Middle Name(s))

Address of witness: _____

Relationship to victim: _____

Brief statement of facts: _____

Injury to victim: _____

State whether medical report is attached: Yes No

Schedule - (Cont'd)

FORM 6 - (Cont'd)

DOMESTIC VIOLENCE POLICE REPORT - (Cont'd)

Type(s) of weapon used: _____

State the whereabouts of the children at time of incident: _____

State whether previous complaints were laid against perpetrator: _____

Date(s): _____ Time(s): _____

Diary Reference(s): _____ District of station: _____

Investigating officer: _____

(Rank/Number/Name)

Action taken on previous complaint: _____

Action taken by: _____

(Rank/Number/Name)

State whether an arrest was made: Yes No

Date of arrest: _____

State whether an emergency protection order was issued: Yes No

Date of issue of emergency protection order: _____

Schedule - (Cont'd)

FORM 6 - (Cont'd)

DOMESTIC VIOLENCE POLICE REPORT - (Cont'd)

Status of previous complaint(s): _____

State whether charges were laid: Yes No

State the charges laid/State the reason that no charges were laid: _____

State whether a protection order was in force: Yes No

Date of issue of protection order: _____

Duration of protection order: _____

Action taken on present complaint: _____

Action taken by: _____

(Rank/Number/Name)

State whether an arrest was made: Yes No

Date of arrest: _____

State whether charges were laid: Yes No

Schedule - (Cont'd)

FORM 6 - (Concl'd)

DOMESTIC VIOLENCE POLICE REPORT - (Concl'd)

State the charges laid/State the reason why no charges were laid: _____

State whether an emergency protection order is in force: Yes No

Date of issue of emergency protection order: _____

State whether a protection order is in force: Yes No

Duration of protection order: _____

Date of issue of protection order: _____

(Name of Investigating Officer)

(Name of Station Sergeant)

(Signature)

(Signature)

Schedule - (Cont'd)



Domestic Violence (Protection Orders) Act
Cap. 130A

FORM 7

(Section 11A(6))

RIGHTS OF THE VICTIM

A victim is hereby advised of the right to:

1. Request the assistance of a member of the Police Force in the protection of the victim and the children, if any.
2. Request the assistance of a member of the Police Force in accompanying the victim and the children, if any, to a place of safety including the Child Care Board, the home of a family member or friend, a shelter or any other place of safety.
3. Request the assistance of a member of the Police Force in accompanying the victim and the children, if any, to the residence of the perpetrator to retrieve the victim's or the children's personal property.
4. Request the assistance of a member of the Police Force in seeking medical treatment or in accompanying the victim and the children, if any, to a medical facility.
5. Lay a criminal complaint against the perpetrator where the conduct of the perpetrator amounts to a criminal offence.
6. Be provided, by a member of the Police Force, with information regarding how a protection order may be obtained.
7. Seek legal representation.
8. Obtain a protection order from the Court to be served on the perpetrator by a marshal of the Court.
9. Request that the address of the victim is not disclosed to the perpetrator.
10. Request further information on the exercise of the rights of the victim from the District Police Station at which the complaint was laid.

Schedule - (Cont'd)



Domestic Violence (Protection Orders) Act
Cap. 130A

FORM 8

(Section 11B(1))

EMERGENCY PROTECTION ORDER

1. Date of complaint: _____
2. Name of person(s) at risk: _____
3. Name of perpetrator: _____
4. Address: _____
5. Sex: _____ Age: _____ Occupation: _____
6. District of Station: _____
7. Investigating Officer: _____
(Rank/Number/Name)
8. Brief statement of facts: _____

I declare that I have reasonable cause to believe that the issue of this emergency protection order is necessary to ensure the safety of the person(s) at risk. The perpetrator must immediately cease to engage in behaviour that constitutes harassment or domestic violence towards the person(s) at risk and vacate any premises occupied by the person(s) at risk. The perpetrator must surrender any licences or permits issued under the *Firearms Act*, Cap. 179 and any ammunition, firearms or other weapons in the perpetrator's possession or control.

Dated this _____ day of _____, 20 .

Police Officer

Schedule - (Concl'd)

FORM 8 - (Concl'd)

EMERGENCY PROTECTION ORDER - (Concl'd)

NOTICE TO THE PERPETRATOR:

This emergency protection order remains in force for a period of 7 days from the date on which it is issued.

If you do not comply with this order, you will render yourself liable to arrest without further notice.

You are referred to sections 11B to 11E of the *Domestic Violence (Protection Orders) Act*, Cap. 130A.

Read three times and passed the House of Assembly this
day of _____, 2016.

Speaker

Read three times and passed the Senate this _____ day of
, 2016.

President

DOMESTIC VIOLENCE (PROTECTION ORDERS) (AMENDMENT) ACT, 2016

EXPLANATORY MEMORANDUM

The *Domestic Violence (Protection Orders) Act, Cap. 130A* came into force on 13th February, 1992 to provide for, *inter alia*, the granting of protection orders in circumstances surrounding domestic violence. However, certain deficiencies in the law have become apparent. The amended legislation purports to enhance the protection offered to victims of domestic violence and ensure that perpetrators are held accountable. It will, *inter alia*, provide a comprehensive definition of the term “domestic violence”, extend the categories of persons considered to be in a domestic relationship, extend the categories of persons or agencies that may intervene on behalf of a victim of domestic violence and extend the powers of the Police Force when dealing with complaints alleging domestic violence.

- Clause 1:** states the short title by which the Act may be cited.
- Clause 2:** replaces the definitions of the terms “child”, “harassment” and “spouse” used in the principal Act and sets out the definitions of other terms used in the legislation.
- Clause 3:** amends section 3 of the principal Act to provide for the circumstances under which the Court will issue a final protection order. Provision is also made for the issuance of an interim protection order including when such an order may be issued, the criteria to be met by a complainant before such an order is issued and how that type of order should be served on the respondent.
- Clause 4:** amends section 4 of the principal Act to extend the class of persons who may apply to the Court for a protection order. It also provides for the procedure observed by the Court where an application is made for a protection order, as well as the options available to the Court in dealing with the application

Domestic Violence (Protection Orders)
(Amendment) Act, 2016

when either the complainant or his representative or the respondent failed to appear at the time and place appointed for hearing.

- Clause 5:** amends section 5 of the principal Act to state that affidavit evidence in accordance with Form 2A as set out in the Schedule, may be given in support of an application for a protection order.
- Clause 6:** amends section 6 of the principal Act to expand the terms that can be included by the Court when issuing a protection order. Such terms include making an order for the payment of compensation for pecuniary loss suffered by a complainant, payment for the maintenance of a dependant of the complainant and respondent and, where no order is in force under other legislation, making an order as to the maintenance of the complainant or a child of the complainant, the custody of or access to a child of the respondent and the enrolment of male perpetrators of domestic violence in programmes facilitated by the Ministry responsible for Social Care. The Court may also make an order for a respondent to surrender to the police, any ammunition, firearms or other weapons in the respondent's control, whether or not they were used to commit an act of domestic violence.
- Clause 7:** amends section 7 of the principal Act to remove the need for the Court to consider the preservation and protection of the institution of marriage or a union other than marriage and the provision of protection and assistance to the family as a natural and fundamental group unit in society, when determining an application for a protection order.
- Clause 8:** inserts sections 11A to 11E into the principal Act. Section 11A provides a list of the duties of members of the Police Force

when dealing with complaints alleging domestic violence. They have a duty to respond to every complaint, complete a report in accordance with Form 6 as set out in the Schedule, provide the complainant with a copy of the report, render assistance to the victim, inform the victim of the victim's rights, provide a printed copy of those rights and, pursuant to an emergency protection order or protection order issued by the Court, seize ammunition, firearms or other weapons in the control of the person against whom a complaint is made. It also states that the Commissioner of Police shall keep a Domestic Violence Register to record information by members of the Police Force who respond to complaints alleging domestic violence. Section 11B vests in a member of the Police Force at the rank of Sergeant, the power to issue emergency protection orders in accordance with Form 8 as set out in the Schedule, after an arrest is made by a member of the Police Force upon reasonable suspicion that an act of domestic violence was committed or is about to be committed. It provides that the Sergeant must consider certain factors before issuing an emergency protection order, but may issue such an order without the consent of the person at risk. Sections 11C to 11E make provision for the service of an emergency protection order, the responsibility of a perpetrator after being served with an emergency protection order and the penalty for breaching an emergency protection order respectively.

Clause 9: amends section 12 of the principal Act to provide for the power of a member of the Police Force to arrest without a warrant, a person who is suspected to be in breach of a protection order by reason of that person's use of violence or unauthorised entry into premises or areas referred to in section 6(1) of the Act. It also confirms that members of the Police

Domestic Violence (Protection Orders)
(Amendment) Act, 2016

Force have the power to make an arrest on reasonable suspicion that an act of domestic violence was committed or is about to be committed. It states that where the power of arrest is exercised, the subject of the arrest should be brought before the Court within 24 hours from the time of his arrest or as soon as reasonably practicable thereafter.

Clause 10: amends section 14 of the principal Act to provide for the circumstances in which a member of the Police Force may enter premises without a warrant for the purpose of giving assistance to any person on those premises. It also provides that where such a power of entry is exercised, the member of the Police Force who exercised that power must prepare and submit a report to the Commissioner of Police.

Clause 11: amends section 16 of the principal Act by deleting subsections (3) and (4).

Clause 12: inserts section 19A into the principal Act. Section 19A imposes upon a certain group of individuals, namely, those who examine or attend to a child (e.g. doctor, psychologist, teacher) an obligation to report child abuse to the Child Care Board or a member of the Police Force and provides the penalty for a failure to report child abuse or knowingly and maliciously making a false, inaccurate or misleading report.

Clause 13: amends the Schedule to the principal Act. Form I is a new Application for Protection Order. Form 2A is the Affidavit in support of an Application for Protection Order. Form 6 is the Domestic Violence Police Report. Form 7 lists the Rights of the Victim. Form 8 is the Emergency Protection Order.