

CAYMAN ISLANDS



PROTECTION FROM DOMESTIC VIOLENCE ACT

(2021 Revision)

Supplement No. 5 published with Legislation Gazette No. 16 dated 19th February, 2021.

PUBLISHING DETAILS

Law 33 of 2010 consolidated with Laws 35 of 2020, 43 of 2020 and 56 of 2020.

Revised under the authority of the *Law Revision Act (2020 Revision)*.

Originally enacted —

Law 33 of 2010-15th September, 2010

Law 35 of 2020-4th September, 2020

Law 43 of 2020-4th September, 2020

Law 56 of 2020-4th September, 2020.

Consolidated and revised this 31st day of December, 2020.



CAYMAN ISLANDS



PROTECTION FROM DOMESTIC VIOLENCE ACT

(2021 Revision)

Arrangement of Sections

Section	Page
PART I - PRELIMINARY	
1. Short title	5
2. Interpretation	5
3. Commission of domestic violence	8
PART II - PROTECTION, OCCUPATION AND TENANCY ORDERS	
Application for Orders	9
4. Power of court to grant a protection order, an occupation order or a tenancy order	9
Protection Order	10
5. Application for a protection order	10
6. Terms of protection order	10
7. Matters to be considered	12
8. Interim orders	13
9. Application by respondent for discharge of a protection order	13
Occupation Order	14
10. Application for an occupation order	14
11. <i>Ex parte</i> application for an occupation order	14
12. Variation or discharge of an occupation order	14



13.	Procedure relating to occupation orders	15
-----	---	----

Tenancy Order **15**

14.	Application for a tenancy order	15
15.	<i>Ex parte</i> tenancy order	15
16.	Prescribed person shall become a tenant	16
17.	Revesting order	16
18.	Notice of tenancy order	16

PART III - ANCILLARY ORDERS

19.	Maintenance order	17
20.	Order granting use of furniture etc.	17
21.	Ouster order	18

PART IV - OFFENCES, POWERS OF ARREST AND BAIL

22.	Breach of a protection, occupation, tenancy or ancillary order	18
23.	Powers of arrest	18
24.	Bail	19

PART V - GENERAL

25.	Property ownership	19
26.	Protection of charge	19
27.	Conduct of proceedings	19
28.	Restriction on publication of proceedings	20
29.	Standard of proof	20
30.	Orders by consent	20
31.	Treatment programme	20
32.	Appeals	21
33.	Rules	21
34.	Repeal of the Summary Jurisdiction (Domestic Violence) Law (1998 Revision)	21
35.	Savings and transitional provisions	21

ENDNOTES **23**

	Table of Legislation history:	23
--	-------------------------------------	----



CAYMAN ISLANDS



PROTECTION FROM DOMESTIC VIOLENCE ACT

(2021 Revision)

PART I - PRELIMINARY

Short title

1. This Act may be cited as the *Protection from Domestic Violence Act (2021 Revision)*.

Interpretation

2. In this Act —

“**applicant**” means any person who applies or on whose behalf an application is made for an order under this Act;

“**charge**” means an interest in land securing the payment of money or money’s worth or the fulfilment of any condition, and includes a sub-charge and the instrument creating a charge;

“**child**” means any individual under the age of eighteen who has never been married or a party to a civil partnership and who is —

- (a) a child of both parties to a marriage or civil partnership;
- (b) a child (whether or not a child of either party to a marriage or a civil partnership) who is or has been living in the household residence as a member of the family;

- (c) a child of a man and a woman who, although not married to each other or in a civil partnership with each other, are living together or have lived together in the same household residence;
- (d) a child of two persons who, although not in a civil partnership with each other, are living together or have lived together in the same household residence;
- (e) a child (whether or not a child of the man and woman referred to in paragraph (c) or either of them, or whether or not a child of the two persons referred to in paragraph (d) or either of them) —
 - (i) who is or has been a member of their household residence;
 - (ii) who resides in that household residence on a regular basis; or
 - (iii) of whom either the man or woman referred to in paragraph (c) or one of the two persons referred to in paragraph (d) is a guardian,

and includes an adopted child and a step-child;

“civil partner” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020 [Law 35 of 2020]* and includes —

- (a) two persons who cohabit with each other as if they are in law each other’s civil partner; and
- (b) a former civil partner where a civil partnership is dissolved or annulled;

“civil partnership” has the meaning assigned by section 2 of the *Civil Partnership Act, 2020 [Law 35 of 2020]*;

“court” means the Grand Court or a court of summary jurisdiction;

“dependant” includes —

- (a) a member of the family of a respondent who is a person eighteen years of age or older and ordinarily resides or resides on a regular basis with the respondent and is reliant on the respondent for that person’s welfare or maintenance; and
- (b) a person who, by reason of physical or mental disability, age or infirmity, is reliant on the respondent for that person’s welfare or maintenance;

“dwelling house” means a building used or intended to be used mainly as a place of residence;

“electronic” means relating to technology and having electrical, magnetic, optical, electromagnetic, or similar capabilities, whether digital, analogue or otherwise;

“ex parte application” means an application made without notice to the respondent;

“household residence” means the dwelling house that is used habitually by a prescribed person and the respondent as the only or principal family residence



together with any buildings or improvements appurtenant thereto and wholly or mainly used for the purposes of the household;

“**member of the household residence**” means a prescribed person who habitually resides in the same household residence as the respondent;

“**occupation order**” means an order made under section 10 and an interim order made under section 11;

“**parent**” means any person who is a parent or grandparent of a prescribed person or respondent and includes a step-parent or guardian;

“**party to a marriage**” means —

- (a) a man and a woman who are married to each other; or
- (b) a man and a woman who, although not married to each other, are living with each other in the same household residence as husband and wife;

“**prescribed person**” means the spouse, civil partner, parent, child or dependant of the respondent or any person who is a member of the household residence or is in a visiting relationship with the respondent;

“**police officer**” means a member of the Royal Cayman Islands Police Service;

“**protection order**” means an order made under section 5 and includes an interim order made under that section;

“**public general holiday**” has the meaning assigned by the *Public Holidays Act (2007 Revision)*;

“**respondent**” means a person who is named in an application made pursuant to this Act;

“**spouse**” includes —

- (a) a woman who cohabits with a man as if she were in law his wife;
- (b) a man who cohabits with a woman as if he were in law her husband; and
- (c) a former spouse;

“**tenancy order**” means an order made under section 14 and an interim order made under section 15;

“**tenant**”, in relation to a household residence, includes any person —

- (a) whose tenancy has expired or has been determined; and
- (b) who is for the time being deemed under or by virtue of any court order or law to be the tenant of the household residence;

“**treatment programme**” includes a programme designed to counsel the parties or rehabilitate behavioural issues; and

“**visiting relationship**” means a close personal relationship —

- (a) between two persons who do not share a common household residence; and

- (b) that is identifiable by virtue of its nature and intensity having regard to —
 - (i) the amount of time that the persons spend together;
 - (ii) the place where that time is ordinarily spent;
 - (iii) the manner in which that time is ordinarily spent;
 - (iv) the duration of the relationship; and
 - (v) the existence of a child (if any) of both parties.

Commission of domestic violence

3. (1) A person commits an act of domestic violence against a prescribed person where it is proved that the person's conduct caused or is intended to cause —
- (a) emotional or psychological abuse;
 - (b) financial abuse;
 - (c) physical abuse; or
 - (d) sexual abuse.
- (2) In this section —
- “emotional or psychological abuse”** means behaviour which is intended to harass or undermine the emotional or mental well-being of a prescribed person including —
- (a) intimidation by using abusive or threatening language in a manner calculated to cause annoyance to, instil fear in or result in ill-treatment of the prescribed person;
 - (b) following the prescribed person to or waylaying the prescribed person at any place;
 - (c) depriving the prescribed person of the use of property;
 - (d) watching or besetting of the place where the prescribed person resides, works or conducts business;
 - (e) interfering with the property of the prescribed person;
 - (f) damaging any property owned by, or available for the use or enjoyment of, the prescribed person, or any property in the care or custody or situated at the residence of the prescribed person;
 - (g) forced confinement of the prescribed person;
 - (h) the making of persistent telephone calls to the prescribed person at the prescribed person's place of residence, work or any other place where the prescribed person resides or conducts the prescribed person's activities;
 - (i) sending any data, text, mail, image, sound or code by electronic means to the prescribed person; and
 - (j) making unwelcome and repeated or intimidating contact with the prescribed person;



“**financial abuse**” means behaviour which is intended to exercise coercive control over, exploit or limit a prescribed person’s access to financial resources so as to ensure financial dependence;

“**physical abuse**” means any act or omission which causes or threatens physical injury; and

“**sexual abuse**” includes sexual contact of any kind that is coerced by force or threat of force.

- (3) Any act of abuse identified in subsection (1) which is committed on a single occasion shall be regarded as an act of domestic violence even though some or all of those acts, when viewed in isolation, may appear minor.
- (4) Without prejudice to the generality of subsection (1), a person abuses a child if that person —
 - (a) causes or allows the child to see or hear the physical, sexual, emotional or psychological abuse of a person with whom the child resides; or
 - (b) places the child, or allows the child to be placed at real risk of seeing or hearing the abuse described in paragraph (a).

PART II - PROTECTION, OCCUPATION AND TENANCY ORDERS

Application for Orders

Power of court to grant a protection order, an occupation order or a tenancy order

4. (1) A court may, on application by a prescribed person against whom an act of domestic violence has been committed, grant a protection order, an occupation order or a tenancy order in accordance with this Act.
- (2) Where an act of domestic violence is alleged to have been committed against a child or a dependant, an application for an order under subsection (1) may be made by —
 - (a) a person with whom the child or dependant ordinarily resides or resides on a regular basis;
 - (b) a parent or guardian of the child or dependant;
 - (c) a dependant who is not mentally disabled;
 - (d) a person who is approved by the Ministry responsible for children and family services; or
 - (e) a police officer.

- (3) An application under subsection (1) may be made with the leave of the court on behalf of a spouse, civil partner, parent, member of the household residence or person in a visiting relationship with the respondent by —
- (a) a police officer; or
 - (b) any other person, whether or not that person is a member of the household residence.
- (4) In determining whether to grant leave under subsection (3), the court may take into account whether or not —
- (a) the application is —
 - (i) in accordance with the wishes of the prescribed person identified in subsection (3); or
 - (ii) in the best interests, of the prescribed person identified in subsection (3); and
 - (b) there is any conflict between the interests of the person seeking leave and the prescribed person entitled to apply.

Protection Order

Application for a protection order

5. (1) On hearing an application for a protection order, the court may make an order prohibiting the respondent from committing any further act of domestic violence specified in section 3(1) against a prescribed person if it is satisfied that —
- (a) the respondent has committed or threatened to commit an act of domestic violence against the prescribed person and is likely to repeat such acts; or
 - (b) having regard to all the circumstances, the order is necessary for the protection of the prescribed person.
- (2) A protection order may be made on an *ex parte* application if the court is satisfied that the delay that would be caused by proceeding on summons may —
- (a) result in a risk to the personal safety of a prescribed person; or
 - (b) cause the prescribed person serious or undue hardship.
- (3) A protection order made on an *ex parte* application shall be an interim order.
- (4) Where a protection order is granted on an *ex parte* application, it shall be served personally on the respondent who may apply to the court for it to be discharged.

Terms of protection order

6. (1) A protection order may —
- (a) prohibit the respondent from —



- (i) engaging or threatening to engage in conduct which would constitute domestic violence towards the applicant;
 - (ii) being on premises specified in the order and that are premises frequented by the applicant including any property, business, school or place of employment;
 - (iii) being in a locality specified in the order;
 - (iv) engaging in direct or indirect communication with the applicant;
 - (v) taking possession of, damaging, converting or otherwise dealing with property that the applicant may have an interest in, or is reasonably used by the applicant;
 - (vi) approaching the applicant within a specified distance; or
 - (vii) causing or encouraging another person to engage in conduct referred to in paragraphs (i) to (vi);
- (b) provide that the order shall be applied for the benefit of a child or dependant of the applicant or respondent; or
- (c) direct that the respondent —
- (i) return to the applicant specified property that is in the respondent's possession or under the respondent's control;
 - (ii) pay compensation for monetary loss incurred by an applicant as a direct result of conduct that amounted to domestic violence;
 - (iii) pay interim monetary relief to the applicant for the benefit of the applicant and any child, where there is no existing order relating to maintenance until such time as an obligation for support is determined, pursuant to any other written law;
 - (iv) relinquish to the police any firearm licence, firearm or other weapon which the respondent may have in the respondent's possession or control and which may or may not have been used;
 - (v) make or continue to make payments in respect of rent or other payments for premises occupied by the applicant;
 - (vi) ensure that reasonable care is provided in respect of a child or dependant person; or
 - (vii) participate in a treatment programme approved by the court.
- (2) A protection order may contain such other prohibitions or directions as are necessary.
- (3) Where a court makes an order which, among other things, directs the payment of compensation under subsection (1)(c)(ii), such compensation may include —
- (a) loss of earnings;
 - (b) medical and dental expenses;

- (c) moving and accommodation expenses; and
 - (d) reasonable legal costs, including the cost of an application pursuant to this Act.
- (4) The court shall have jurisdiction to award compensation not exceeding fifteen thousand dollars and the payment of such compensation shall be received by the court on behalf of the applicant.
- (5) Where the court grants a protection order it may at the same time make an interim occupation or tenancy order.
- (6) Where the court makes an occupation order or an order which, among other things, directs the respondent to return to the applicant specified property that is in the respondent's possession or control, the court may, in that same order, if it thinks necessary and notwithstanding any other law, direct the police —
- (a) to remove the respondent either immediately or within a specified time from the said place or residence; or
 - (b) to accompany the applicant either immediately or within a specified time to specified premises in order to supervise the removal of property belonging to the applicant and to ensure the protection of that person.
- (7) A protection order may be made for such period as the court considers necessary but shall not exceed three years.
- (8) Where the order contains any prohibitions or directions, the court may specify different periods, none of which shall exceed three years, as the period for which each prohibition or direction shall remain in force.

Matters to be considered

7. In determining whether or not to impose one or more of the prohibitions or directions specified under section 6, a court shall have regard to the following —
- (a) the nature, history or pattern of the violence that has occurred and whether a previous protection order or interim order has been issued;
 - (b) the need to protect the applicant and any other person for whose benefit the protection order has been granted from further domestic violence;
 - (c) the welfare of any child;
 - (d) the accommodation needs of the applicant and any other person;
 - (e) the hardship that may be caused as a result of making of the order;
 - (f) the income, assets and financial obligations of the respondent, the applicant and any other person affected by the order;
 - (g) the need to preserve and protect the institution of marriage, the civil partnership and other relationships while affording protection and assistance to the family as a unit; or



- (h) any other matter, that in the circumstances of the case, the court considers relevant.

Interim orders

8. (1) An interim order made under sections 5, 11 and 15 on an *ex parte* application shall specify a date for a hearing which shall be as soon as practicable after the interim order is made in order to determine whether an order shall be made in substitution for the interim order.
- (2) The copy of an interim order which is served on the respondent shall notify the respondent that unless the respondent attends court on the date specified in the order to show cause why an order should not be made in substitution for the interim order, the court may discharge the interim order and make another order in substitution.
- (3) At the hearing referred to in subsection (1), the court may —
- (a) discharge the interim order;
 - (b) discharge the interim order and make a substituted order; or
 - (c) on good cause being shown, adjourn the hearing to a date and place as the court may specify.
- (4) Where a hearing is adjourned under subsection (3)(c) the court shall, at the subsequent hearing, exercise either the power conferred by paragraph (a) or (b) of that subsection.
- (5) In this section —
- “**interim order**” means an interim protection order, interim occupation order or interim tenancy order; and
- “**order**” means a protection order, an occupation order or a tenancy order, not being an interim order.

Application by respondent for discharge of a protection order

9. (1) A respondent may apply to the court for the discharge of a protection order.
- (2) A copy of an application made under subsection (1) shall be served personally on each person who was a party to the proceedings in which the original order was made.
- (3) In determining whether to discharge a protection order the court shall have regard to the matters referred to in section 5(1).

Occupation Order

Application for an occupation order

- 10.** (1) An application may be made to the court by or on behalf of a prescribed person for the grant of an occupation order.
- (2) Subject to subsection (3), the court may, on an application under subsection (1), make an occupation order granting to the prescribed person, for such period and on such terms and subject to such conditions as the court thinks fit, the right to occupy the household residence to the exclusion of the respondent.
- (3) The court may make an order under subsection (2) only if it is satisfied that such an order —
- (a) is necessary to protect the prescribed person from an act of domestic violence; or
 - (b) would be in the best interests of a child.

Ex parte application for an occupation order

- 11.** (1) An occupation order may be made on an *ex parte* application if the court is satisfied that —
- (a) the respondent has committed or threatened to commit, an act of domestic violence against a prescribed person; and
 - (b) the delay that would be caused by proceeding on summons —
 - (i) will or may result in a risk to the personal safety of a prescribed person; or
 - (ii) cause the prescribed person serious or undue hardship.
- (2) An occupation order made on an *ex parte* application shall be an interim order and served personally on the respondent.
- (3) Where the court grants an occupation order on an *ex parte* application, the court may at the same time make an interim protection order.
- (4) An occupation order which is made on an *ex parte* application expires —
- (a) on the discharge of the order by the court; or
 - (b) on the discharge of an interim protection order made pursuant to subsection (3).

Variation or discharge of an occupation order

- 12.** (1) The court may, if it thinks fit, on the application of the applicant or respondent, make an order —
- (a) extending or reducing any period specified by the court pursuant to section 10(2); or



- (b) varying or discharging any terms and conditions imposed by the court under that section.
- (2) Where an occupation order is made on an *ex parte* application, the respondent may apply for a variation or discharge of that order.

Procedure relating to occupation orders

- 13.** (1) The court, before making an occupation order, other than an interim occupation order, shall direct that notice be given to any person having an interest in the property which would be affected by the order.
- (2) The person referred to in subsection (1) shall, upon being notified pursuant to that subsection, be entitled to appear and be heard in the matter of the application for the occupation order as a party to that application.

Tenancy Order

Application for a tenancy order

- 14.** (1) An application may be made to the court by or on behalf of a prescribed person for a tenancy order vesting in the prescribed person the tenancy of any household residence —
- (a) of which the respondent is either the sole tenant or a tenant holding jointly or in common with the prescribed person; and
 - (b) which is the household residence of the prescribed person or the respondent,
- at the time of the making of the order.
- (2) Where the court makes a tenancy order under subsection (1) it may, if deemed to be in the best interests of a prescribed person, stipulate such terms and conditions as it thinks fit, including a condition that the respondent shall continue to maintain the household residence and pay the whole or part of the rent applicable to the tenancy.

***Ex parte* tenancy order**

- 15.** (1) A tenancy order may be made on an *ex parte* application if the court is satisfied that —
- (a) the respondent has committed or threatened to commit an act of domestic violence against a prescribed person; and
 - (b) the delay that would be caused by proceeding on summons —
 - (i) will or might result in a risk to the personal safety of a prescribed person; or
 - (ii) cause the prescribed person serious or undue hardship.

- (2) A tenancy order made on an *ex parte* application shall be an interim order.
- (3) Where the court makes a tenancy order on an *ex parte* application the court shall, at the same time, make an interim protection order unless the court considers that there are special reasons why such an order should not be made.
- (4) A tenancy order which is made on an *ex parte* application expires —
 - (a) on the discharge of the tenancy order granted by the court;
 - (b) on the discharge of an interim protection order made under subsection (3);
or
 - (c) in any other case, at the expiration of a period of seven days after the date on which the order was made.
- (5) Where a tenancy order is made on an *ex parte* application, the respondent may apply immediately for variation or discharge of that order.

Prescribed person shall become a tenant

16. (1) Where a tenancy order is made the prescribed person shall, unless the tenancy is sooner determined, become the tenant of the household residence subject to the terms and conditions of the tenancy in force at the time of the making of that order and the respondent shall cease to be the tenant.
- (2) Every tenancy order shall have effect and may be enforced as if it were an order of the court for possession of the land granted in favour of the prescribed person.

Revesting order

17. (1) The court may, if it thinks fit, on the application of —
 - (a) the prescribed person or respondent; or
 - (b) the legal representative of either party,make a revesting order which revests the tenancy accordingly.
- (2) Where a revesting order is made under subsection (1), the person in whose favour it is made shall, unless the tenancy is sooner lawfully determined, become the tenant of the household residence subject to the terms and conditions of the tenancy in force immediately before the date on which the revesting order was made.

Notice of tenancy order

18. (1) The court, before making any tenancy order (other than an interim tenancy order) shall direct that notice be given to any person having an interest in the property which would be affected by the order.
- (2) The person referred to in subsection (1) shall, upon being notified pursuant to that subsection, be entitled to appear and to be heard in the matter of the application for the tenancy order as a party to that application.



- (3) Where an application is made for an occupation order, the court may also treat that application as an application for a tenancy order or both and may make a tenancy order, whether or not it makes an occupation order, if it is satisfied that —
 - (a) it has jurisdiction to make the tenancy order and that the making of such an order is appropriate; and
 - (b) subsection (1) has been complied with in respect of the making of a tenancy order.

PART III - ANCILLARY ORDERS

Maintenance order

19. (1) On making a protection order, an occupation order or a tenancy order, the court may at the same time and of its own volition or at the instance of an applicant, make an order in accordance with the provisions of the *Maintenance Act (1996 Revision)*, for the maintenance of any prescribed person entitled to be maintained by the respondent if no such order for maintenance is already in force.
- (2) The duration of an order for maintenance under this section shall not exceed the duration of a protection order, an occupation order or a tenancy order.

Order granting use of furniture etc.

20. (1) Subject to subsection (2), the court may, on or after making an occupation order or tenancy order, make an order granting to the applicant the use of all or any of —
 - (a) the furniture;
 - (b) the household appliances;
 - (c) household effects; and
 - (d) any other property,in the household residence to which the occupation or tenancy order relates for such period and subject to such terms and conditions as the court thinks fit.
- (2) An order made under subsection (1) shall continue in force for a period of three months from the date of the making of the order, unless the court otherwise directs, but shall expire before that period if the occupation or tenancy order expires or is discharged.

Ouster order

21. (1) Where an agreement, including a charge or a lease of premises, provides that if the respondent ceases to reside in the respondent's household residence, a person may take action that would be prejudicial to the interests of the respondent or a member of the respondent's household, that person is not entitled to take any action if the respondent ceases to reside in the household residence in compliance with either an occupation order or a tenancy order granted under this Act.
- (2) Where the court is satisfied on evidence before it that an agreement referred to in subsection (1) exists in relation to the respondent, the court shall at the time of making an order described in subsection (1), direct that a notice of such order be sent by the Clerk of the Court to the person referred to in subsection (1) notifying the Clerk of the Court of such order and the provisions of subsection (1).

PART IV - OFFENCES, POWERS OF ARREST AND BAIL**Breach of a protection, occupation, tenancy or ancillary order**

22. (1) A respondent commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of two years or both if a protection, occupation, tenancy or ancillary order has been served personally on the respondent and the respondent's conduct is in contravention of that order in any respect.
- (2) In the case of a continuing breach of an order specified in subsection (1), the respondent may be ordered by the court to pay a further sum of one hundred dollars for each day that such breach continues after the date of its proof.

Powers of arrest

23. (1) Subject to the provisions of this section, where an order made under this Act is in force, a police officer may arrest without a warrant a respondent whom the police officer has reasonable cause to believe has breached or is likely to breach that order.
- (2) A respondent shall not be arrested pursuant to this section unless a police officer has reasonable cause to believe that the respondent's arrest is necessary for the protection of a prescribed person.
- (3) For the purposes of subsections (1) and (2), a police officer shall take into account —
- (a) the seriousness of the act which constitutes or may constitute the alleged breach;
 - (b) the time that has elapsed since the alleged breach was committed; and



- (c) the restraining effect of other persons or circumstances on the respondent.
- (4) A respondent who is arrested under this section shall be accorded all rights provided under the *Police Act (2021 Revision)*.

Bail

- 24.** (1) Notwithstanding any other law to the contrary, where the court is required to determine whether to grant bail to a respondent in respect of an offence under this Act, the matters that it shall take into account include —
- (a) the welfare of a child;
 - (b) whether the prescribed person has been notified of the bail application and expressed any objections;
 - (c) the need to ensure that a prescribed person is protected from domestic violence; and
 - (d) any hardship that may be caused to the respondent or to members of the respondent's household residence if bail is not granted or a particular condition is imposed.
- (2) The court may grant bail on such terms and conditions as it thinks fit and any person who contravenes or fails to comply with any condition of bail is liable to be rearrested.

PART V - GENERAL

Property ownership

- 25.** Nothing in this Act shall be deemed to alter any right a person may have to ownership of property.

Protection of charge

- 26.** (1) The rights conferred on any person in respect of any property by an order made under this Act shall be subject to the rights of any other person entitled to the benefit of any charge affecting the property if such charge was registered before the making of the order or if the rights of the person entitled to the benefit arise under an instrument executed before the date of the making of the order.
- (2) Notwithstanding anything in any enactment or in any instrument, no money payable under any such charge shall be called up or become due by reason of the making of an order under this Act.

Conduct of proceedings

- 27.** (1) The persons permitted to be present during the hearing of any proceedings under this Act are —

- (a) an officer of the court;
 - (b) a party to the proceedings;
 - (c) the attorney-at-law for a party to the proceedings;
 - (d) a witness; or
 - (e) any other person permitted by the court to be present.
- (2) Nothing in this section shall limit any other power of the court to hear proceedings in camera or to exclude any person from the court.

Restriction on publication of proceedings

- 28.** (1) No person shall publish a report of any proceedings under this Act unless that person is first granted leave of the court which heard the proceedings.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of two thousand dollars or to imprisonment for a term of six months or both.
- (3) Nothing in this section limits —
- (a) the provisions of any other enactment relating to prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; and
 - (b) the power of the court to punish any contempt of court.

Standard of proof

- 29.** A question of fact arising in any proceedings under this Act, other than criminal proceedings, shall be decided on a balance of probabilities.

Orders by consent

- 30.** In any proceedings under this Act, the court may make an order by the consent of all the parties to such proceedings.

Treatment programme

- 31.** (1) The court may, on making an order under this Act, order that either the respondent or a prescribed person or both, participate in an appropriate treatment programme as the court may specify.
- (2) Where the court makes an order which directs participation in a treatment programme under subsection (1) the order shall specify —
- (a) that the counsellor or therapist provide the court with written notification of sessions missed by any relevant party; and
 - (b) the date by which the counsellor or therapist shall submit a report to the court in respect of the treatment.



Appeals

- 32.** (1) A person aggrieved by —
- (a) the making of an order by the court; or
 - (b) the refusal of the court to make an order,
- may appeal where applicable to the Grand Court or Court of Appeal.
- (2) The operation of an order shall not be stayed pending an appeal unless the court, upon an application and having regard to the circumstances, otherwise directs.

Rules

- 33.** The Rules Committee, constituted under section 19 of the *Grand Court Act (2015 Revision)* may —

- (a) make Rules of Court under that section; or
- (b) make Summary Court Rules under section 44 of the *Summary Jurisdiction Act (2019 Revision)*,

for the purpose of giving effect to this Act and the Rules Committee may in particular, but without prejudice to the generality of this section, make provision for the hearing without delay of any application for an order and the procedure upon giving notice of appeal from decisions of a court and the giving of any recognisance thereupon.

Repeal of the Summary Jurisdiction (Domestic Violence) Law (1998 Revision)

- 34.** The *Summary Jurisdiction (Domestic Violence) Law (1998 Revision)* is **repealed**.

Savings and transitional provisions

- 35.** (1) Any rule made under section 10 of the former Law and in force immediately before the 25th October, 2010, the commencement date of the *Protection from Domestic Violence Act, 2010 [Law 33 of 2010]*, so far as it is not inconsistent with the provisions of this Act, continues in force as if made under this Act.
- (2) Except as may be expressly provided in this Act, this Act does not affect the rights of any party to any proceeding commenced in any court before the 25th October, 2010, the commencement date of the *Protection from Domestic Violence Act, 2010 [Law 33 of 2010]*.
- (3) Every application, matter and proceeding filed or commenced in a court under the former Law and partly dealt with immediately before the 25th October, 2010, the commencement date of the *Protection from Domestic Violence Act, 2010 [Law 33 of 2010]*, may be continued, completed, enforced and dealt with in all respects as if this Act had not come into force.
- (4) Every application, matter and proceeding filed or commenced in a court under the former Law and not dealt with immediately before the 25th October, 2010,

the commencement date of the *Protection from Domestic Violence Act, 2010 [Law 33 of 2010]*, shall be taken to be an application, matter or proceeding commenced under this Act, and the provisions of this Act are to apply accordingly.

- (5) In the case of an appeal under the former Law that has been commenced but not finally determined before this Act comes into force, the court shall continue to deal with the appeal as if this Act had not come into force.
- (6) In this section —
“**the former Law**” means the **repealed** *Summary Jurisdiction (Domestic Violence) Law (1998 Revision)*.

Publication in consolidated and revised form authorised by the Cabinet this 5th day of January, 2021.

Kim Bullings
Clerk of the Cabinet



ENDNOTES

Table of Legislation history:

SL #	Law #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	35/2020	Civil Partnership Law, 2020	4-Sep-2020	LG64/2020/s1
	43/2020	Protection from Domestic Violence (Amendment) Law, 2020	4-Sept-2020	LG64/2020/s9
	33/2010	Protection from Domestic Violence Law, 2010	25-Oct-2010	G22/2010/s15

(Price: \$4.80)

