

DOMESTIC VIOLENCE ACT SIMPLIFIED

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The Act protects and provides relief for matters related to domestic violence.

1. Short title and date commencement

- (1) The Act is called the Domestic Violence Act
- (2) The Act comes into operation when the President announces it.

2. Interpretation

- (1) In this Act –

“Complainant” means the person who is wronged and is:

- (a) A person who is or once was married to the person they are complaining about
- (b) A child of the person being complained about. The child may be adopted, a step child or born out the offender’s current marriage.
- (c) Anyone who lives with the offender who may or may not be related to the offender
- (d) Any one who –
 - i. Lives with the offender
 - ii. Has been or is in a romantic relationship with the wrongdoer

Who applies for a protection order or a person who a protection order may be issued

“Complainant’s representative” means anyone who can make an application for a protection order on behalf of the person who has been wronged. These include –

- (a) A police officer
- (b) A social welfare officer
- (c) An employer of the complainant
- (d) A person acting on behalf of –
 - i. A church or any other religious institution
 - ii. a private voluntary organisation concerned with the welfare of victims of domestic violence;
- (e) a relative, neighbor or fellow employee of the person who has been wronged
- (f) a counselor
- (g) any other person the Minister may define as able to do so

"Domestic violence" means violence as defined in Section 3;

"Council" means the Anti-Domestic Violence Council established in terms of section 16;

"Counsellor" means an anti-domestic violence counsellor appointed in terms of section 15;

"Minister" means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"Private voluntary organisation" means a private voluntary organisation registered in terms of the Private Voluntary Organisations Act [*Chapter 17:05*] or any other law that may be substituted for it;

"Protection order" means an order issued in terms of section 10;

"Respondent" means a person who is alleged to be the perpetrator of an actual or threatened act of domestic violence;

"social welfare officer" means a person registered as a social worker in terms of the Social Workers Act [*Chapter 27:21*] (No. 9 of 2001) or employed in any Ministry responsible for social welfare, health, child welfare or gender or women's affairs.

3 Meaning of domestic violence and its scope

- (1) In this Act, domestic violence means an unlawful act, omission or behavior which results in death or direct physical, sexual or mental injury to any person including –
- a. Physical abuse
 - b. Sexual abuse
 - c. Emotional, verbal and psychological abuse
 - d. Economic abuse
 - e. Intimidation
 - f. Harassment
 - g. Stalking
 - h. who damages property with the intent to cause damage
 - i. enters forcibly enters into the complainant's place where they do not share the same place to stay
 - j. where someone tries to block the complainant from entering or having access to the place where the complainant stays
 - k. getting rid of household property unnecessarily and unreasonably where the complainant has an interest
 - l. abuse derived from the following cultural or customary rites or practices that discriminate against or degrade women—
 - (i) Forced virginity testing; or
 - (ii) Female genital mutilation; or
 - (iii) Pledging of women or girls for purposes of appeasing spirits; or
 - (iv) Forced marriage; or
 - (v) Child marriage; or
 - (vi) Forced wife inheritance;
 - (vii) Sexual intercourse between fathers-in-law and newly married daughters-in-law;
 - m. Abuse forced on the complainant because of his or her age, physical or mental capacity.
 - n. Abuse forced on the complainant because of his or her physical, mental or sensory disability including a visual, hearing or speech functional disability;

- o. Abuse of the complainant because of the complainant's mental illness arrested development or incomplete development of the mind, psychopathic disorder or any other disorder or disability of the mind;

Any act of domestic violence described in paragraphs (a), (b), (c), (e), (f), (g), (h) or (i) when it is perpetrated on the person or property of the complainant's representative.

(2) For the purposes of—

(a) Subsection (1) (a), "physical abuse" includes any act or threatened act of physical violence towards a complainant;

(b) Subsection (1) (b), "sexual abuse" includes any conduct that humiliates, degrades or otherwise violates the sexual integrity of the complainant;

(c) Subsection (1) (c), "emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards a complainant, including but not limited to the following—

(i) repeated insults, ridicule or name-calling; or

(ii) repeated threats to cause emotional pain; or

(iii) Repeatedly showing obsessive possessiveness which becomes a serious invasion of the complainant's privacy, liberty, integrity or security; or

(iv) Any act, omission or behaviour which amounts to domestic violence as it is defined in subsection (1) which, when committed in the presence of minor members of family and is likely to cause mental injury;

(d) Subsection (1)(d), "economic abuse" includes —

i. The unreasonable withholding of economic or financial resources which a complainant is entitled under the law or which is necessary to the complainant and may include household necessities, medical expenses, school fees, mortgage bond, rent payments and any other like expenses ;

ii. Denying the complainant the right to seek employment or get into any activities that pay the complainant

(e) subsection (1)(e), "harassment" means engaging in a pattern of conduct that induces in a complainant the fear of imminent harm or feelings of annoyance and aggravation, including—

(i) watching or loitering outside or near the building or place where the complainant resides, works, carries on business, studies or happens to be;

(ii) Repeatedly making or sending or causing another person to repeatedly make or send abusive phone calls or electronically-transmitted messages to the complainant, whether or not conversation ensues;

(iii) Sending, delivering or causing the delivery of offensive or abusive letters, telegrams, packages, facsimiles, electronic mails or offensive objects to the complainant;

- (f) Subsection (1)(f) “intimidation” includes saying or sending a threat or causing a complainant to get a threat which makes them afraid of immediate harm
- (g) Subsection (1) (g), "stalking" includes following, pursuing, or annoying the complainant.

4 Offence of domestic violence and acts excluded from its scope

- (1) Subject to subsection (2), any person who commits an act of domestic violence within the meaning of section 3 will be guilty of an offence and liable to a fine. The fine will not exceed level 14 or imprisonment for a period not longer than 10 years or the person can be found guilty of both the fine and the imprisonment.
- (2) An offence will not include;
 - a. Emotional, verbal and psychological abuse mentioned above in s3(1)(c) 3(2)(c)(i), (ii) and (iv); and
 - b. Economic abuse mentioned in section 3(1) (d) and defined in section 3(2) (d) (i) and (ii).

PART II

DUTIES AND POWERS OF POLICE IN DOMESTIC VIOLENCE

5 Duties of police officers when it comes to domestic violence

- (1) Every police station shall have at least one police officer who is an expert in domestic violence.
- (2) A police officer who receives a domestic violence complaint shall –
 - a. Assist the complainant in a suitable way and provide advice according to the situation. The police officer may advise on shelter and medical treatment.
 - b. Advise how to apply for relief and how to lodge a complaint under this act:
Provided that, where the complainant wishes, the complaint is taken by an officer of the same sex.
- (3) Where someone is not satisfied with the services of a police officer who they complained to, they can complain as instructed under section 19.

6 Arrest by police officer without warrant

- (1) A police officer can arrest someone without a warrant where he or she suspects someone has committed or is threatening to commit domestic violence in terms of section 4 constitutes a criminal offence towards a complainant.
- (2) When trying to figure out whether someone should be arrested or not a police officer may consider:
 - a. The risk to the safety , health or well-being of the complainant and
 - b. The seriousness of the conduct which amounts to domestic violence as referred to in subsection (1); and
 - c. Anything else that makes the police officer believe that an act of domestic violence has been committed

- (3) Within 48 hours of someone having committed domestic violence, a police officer must take all steps possible to make sure the suspect is brought before a magistrate.

PART III

7 Application for protection order

(1) An application for a protection order may be made to a court where domestic violence has been or is being committed or is threatened by:

- (a) The complainant or
- (b) Any person who the complainant has agreed to do so
- (c) Where complainant is a minor, the person who cares for or has custody of that minor
- (d) any person acting as the complainant's representative, with or without the consent of the complainant:

Provided that the complainant's representative asks the court for permission to make an application for a protection order without the agreement of the complainant

In making the decision to allow someone to do what is stated in (1) (d), the court will consider –

- (e) The reason why an agreement by the complainant was not given
- (f) Whether it is of benefit that the application be made without the complainant.

(2) An application for a protection order should be made to the clerk or registrar of the court. The court can further ask that an affidavit be attached of anyone who can confirm to the matters of the application.

(3) If the complainant is not represented by a lawyer, the clerk or the registrar shall inform the complainant –

(4) The clerk or the registrar of the court shall place the application before the court within 48 hours.

(5) An application for a protection order may be brought on any day including weekends only if the court believes the matter is of urgency and the complainant will suffer if they do not deal with it.

8 Determination of application

(1) Where a court application is made in terms of section 7, the court may –

- a. Ask whether an interim protection order or protection order has been given to any of the parties
- b. Ask for evidence whether written or oral which may include medical evidence:
Any medical evidence shall be supported by a police report;
- c. Examine any witness before court

(2) Where the court finds that there is an existing interim protection or a protection order, the court shall –

- (a) Whether the situation has changed and needs a fresh protection order and
- (b) Direct the parties to make an application under section 12 where it is appropriate.
- (c)

9 Issue of interim protection order

(1) Where an application is made under section 7, and the court is satisfied at face value of the evidence –

- (a) The offending party (respondent), has been committing, is committing or threatening to commit an act of domestic violence.
- (b) It is necessary or desirable to immediately give the complainant the protection order because they are under serious threat or have suffered a great deal of harm or inconvenience which is physical, emotional or economic and may result in actual or threatened domestic violence;

The court shall give the interim protection order even though the respondent has not been given notice of the application or has not been before the court.

- (2) Where it is appropriate, the interim protection order may give any direction, prohibition or award which may be contained in a protection order issued under section 10.
- (3) An interim protection order must be served on the respondent in the prescribed way and must contain a notice calling upon the respondent to show reason, on a date specified in the order, why a protection order should not be issued.
- (4) An interim court order will be issued with a warrant of arrest. The warrant will only be suspended on the condition that the respondent complies with the order
- (5) There are cases where the court can be satisfied that an act of domestic violence or a threat was committed where an application was made in terms of section 7. And the situation does not justify issuing of an interim order, the court may ask the respondent to present why a protection order should not be made against him/her.
- (6) An interim order and a suspended warrant of arrest (see subsection 4) or a notice 9 (see subsection 5) can be served on the respondent as soon as possible by any police officer :

Service may be affected at the complainant's expense, by the messenger of the court or the deputy sheriff.

- (7) A certified copy of the interim protection order shall be issued to the complainant by the clerk or the registrar of the court together with the suspended arrest warrant. The certified copy may be forwarded or another copy may be issued to the nominated police station by the complainant or the complainant's representative.
- (8) An interim order remains in order until it is replaced by a permanent protection order, varied or revoked by a competent court.

- (9) Anyone who fails to follow the interim protection order shall be guilty of an offence or will have to pay a fine not above a level 5 fine or imprisonment for not more than five years or to both a fine and imprisonment.

10 Issue of protection order

- (1) Where a court is satisfied that a domestic act has been committed or is threatened the court may issue a protection order on the return day stated in the interim protection order.
- (2) Where the court is satisfied that the respondent (offending party) has received the notice of the application or has been served, a protection order may be issued even if the respondent is absent.
- (3) A warrant of arrest shall be issued with the protection order. The warrant will be suspended for at least 5 years.
- (4) In determining whether or not to issue a protection order, the court may-
- (a) Ask for oral or written evidence where necessary and this evidence will form part of the record of the proceedings and
- (b) Consider any evidence previously received in terms of section 8(1) and
- (c) Examine any witness before the court
- (5) A protection order shall be served on the respondent as soon as possible, and in any event not later than forty-eight hours after it is issued by a police officer :
- Provided that, where the complainant so requires, service may be effected at the complainant's expense by the messenger of court or deputy sheriff, as the case may be.
- (6) A certified copy will be supplied by the clerk or the registrar of the court to the complainant or complainant's representative or to the police station nominated by either of the two.
- (7) Anyone who fails to follow the interim protection order shall be guilty of an offence or will have to pay a fine not above a level 5 fine or imprisonment for not more than five years or to both a fine and imprisonment.
- (8) Anyone who fails to follow the protection order shall be guilty of an offence or will have to pay a fine not above a level 5 fine and imprisonment for not more than five years.
- (9) An application for a protection order shall not stop any criminal proceedings against a respondent.
- (10) The court may in addition to other remedies order affected family members of the complainant and respondent to undergo counselling by a counsellor.

11 Contents of protection order

- (1) A protection order may, where appropriate –
- (a) prohibit the respondent from committing or enlisting someone else to commit any act of domestic violence;
- (b) direct the respondent to stay away from any premises or place where the complainant lives, or any part of such premises or place;

- (c) stop the respondent from entering or approaching any place or premises where the complainant works, attends or frequents, or any part of such premises or place;
 - (d) direct the respondent to pay emergency money in respect of the complainant's needs and those of any child or dependant of the respondent, including household necessities, medical expenses, school fees and mortgage bond or rent payments;
 - (e) award the temporary custody of any child or dependant of the respondent to any person or institution and regulate rights of access by the respondent to such child or dependant;
 - (f) direct the respondent to afford the complainant or any child or dependant of the complainant access to their place of residence and use of the facilities associated with them;
 - (g) direct the respondent to pay adequate compensation in the prescribed manner for any personal or physical injury, pain, trauma or loss suffered by the complainant;
 - (h) direct that the complainant or the respondent or both undergo counselling by a counsellor with the respondent paying all the necessary expenses;
 - (i) Generally, direct the respondent to do or not do any act or thing which the court considers necessary or desirable for the well-being of the complainant or any child or dependant of the complainant.
- (2) Subject to subsection (3), a protection order shall remain in force for a minimum period of five years or until revoked or varied by the court in terms of section 12.
- (3) Any direction given by the court pay emergency monetary relief and any temporary custody of any person shall remain in force for six months unless an extension has been made by the court (section 12) or an award is made.

So long as the extension does not go beyond three months at a time.

12 Application for revocation, variation or extension of protection order

- (1) Where the circumstances change, either party may apply for the order to be changed or for it to be dismissed or for it to be extended.
- (2) With the permission of the court, a complainant's representative may apply for a revocation, variation or extension of a protection order without the complainant having agreed. In order to determine to allow this, the court will consider all circumstances as referred to in section 7(2).
- (3) The complainant's representative may not make an application to revoke, vary or extend the order where the complainant may be injured by this application.
- (4) An application under subsection (1) or (2) shall be lodged with the clerk or registrar of the court who shall—
 - (a) Fix a date for the hearing of the application; and
 - (b) Place the application before the court as soon as possible and within 48 hours after lodging the application;
 - (c) Give notice of the date of hearing to other interested parties.

- (5) On the date fixed for the hearing of the matter, the court shall consider the application and may for that purpose—
 - (a) Call for such evidence, whether oral or by affidavit, as it considers necessary;
 - (b) Examine any witness before the court.
- (6) If the court is satisfied that good cause has been shown it may revoke or vary any interim protection order or protection order or may extend any such order by a period of not more than twenty four hours.
- (7) The clerk or registrar of the court shall give notice to interested parties of any revocation, variation or extension granted in terms of this section.

13 Issue of further copies of orders and warrants of arrest

A complainant, complainant's representative or police officer may apply to the clerk or registrar of a court for a further certified copy of an interim protection order or protection order, together with the relevant warrant of arrest attached, if the copy which was previously issued—

- (a) Has been lost or destroyed; or
- (b) Has been utilised for effecting the arrest of the respondent.

14 Enforcement of protection order

- (1) If within five years of receiving the protection order or interim protection order the respondent breaks any of the terms and conditions of that order, the complainant may ask the police to enforce the warrant of arrest.
- (2) The request in subsection (1) should have an affidavit/s attached to them. The affidavits should be by witnesses who can confirm the facts of the breach.
- (3) The respondent shall be arrested if the police officer is satisfied that –
 - (a) The respondent has been served with or has had notice of the order
 - (b) There are reasonable grounds for believing that –
 - (i)The respondent concerned has committed, is committing or is threatening to commit a breach of the order concerned; and
 - (b)It is necessary or desirable to do so to protect the complainant from serious or substantial harm, discomfort or inconvenience, whether, physical, emotional or economic.
- (4) A respondent arrested in terms of subsection (3) shall be held in custody and brought before a court within 48 hours of the arrest on a charge of going against section 9 or 10.
- (5) Where a police who the request in subsection (1) is made is satisfied that –
 - (a) The respondent concerned has been served with or has had notice of the order; and
 - b) there are reasonable grounds to believe that the respondent concerned has committed, is committing or is threatening to commit a breach of the order concerned; and
 - (c) It is not necessary or desirable to arrest the respondent in terms of any warrant of arrest attached to the order;

He or she shall serve a summons on the respondent to appear before a court on a charge of contravening section 9 or 10.

PART IV

ANTI-DOMESTIC VIOLENCE COUNSELLORS AND ANTI-DOMESTIC VIOLENCE COUNCIL

15 Anti-domestic violence counsellors

(1) For the better implementation of this Act, the Minister shall in consultation with the Ministers responsible for social welfare, health, child welfare and gender or women's affairs, appoint a panel consisting of—

- (a) Social welfare officers or any officer involved in community work; and
- (b) Members or employees of private voluntary organisations concerned with the welfare of victims of domestic violence;
- (c) Chiefs or headmen as defined in the Traditional Leaders Act [*Chapter 29:17*];

Who shall carry out the duties of anti-domestic violence counsellors in terms of this Act:

Provided that the right of any complainant or respondent is not limited when it comes to getting any other professional counselling.

(2) An anti-domestic violence counsellor shall have the following functions—

- (a) Advising, counselling and mediating the solution of any problems in personal relationships that are likely to lead or have led to the use of domestic violence; and
- (b) Carrying out, upon the instruction of a court, investigations in relation to the financial status of complainants and respondents; and
- (c) Carrying out investigations and making arrangements for the accommodation of the complainants prior to the issue of an interim protection order or protection order; and
- (d) making immediate arrangements for the medical or other examination of a child where there is a reasonable suspicion that he or she is a complainant; and
- (e) Providing counselling to complainants and respondents; and
- (f) Performing any other function which the Minister may assign to him or her for the purposes of this Act.

(3) An anti-domestic violence counsellor may, in carrying out his or her duties, seek the assistance of any police officer.

16 Anti-Domestic Violence Council

(1) The Minister shall, for the purpose of this Act, establish a council to be known as the Anti-Domestic Violence Council which shall consist of the following members—

- (a) One representative nominated by each of the following —

- (i) The Ministry responsible for justice; and
- (ii) The Ministry responsible for gender or women's affairs; and
- (iii) The Ministry responsible for health and child welfare; and
- (iv) The Department of Social Welfare in the Ministry responsible for social welfare; and
- (v) The Zimbabwe Republic Police; and
- (vi) The Ministry responsible for education; and
- (vii) The Council of Chiefs referred to in section 37 of the Traditional Leaders Act [*Chapter 29:17*] (No. 25 of 1998) or any other law that may be substituted for it;

And

- (b) three persons representing the interests of private voluntary organisations concerned with the welfare of victims of domestic violence, children's rights and women's rights; and
- (c) One person representing the interests of churches in Zimbabwe; and
- (d) One person representing the interests of any other body or organisation which the Minister considers should be represented on the Council.

(2) The members of the Council shall have no criminal record.

(3) The chairperson and the deputy chairperson of the Council shall be persons qualified in the prescribed disciplines and shall be appointed by the Minister in consultation with the Minister responsible for social welfare.

(4) Members of the Council shall be appointed by the Minister for a period not exceeding three years, as he or she shall specify on their appointment.

(5) The Minister shall prescribe the terms and conditions of service of all members of the Council.

(6) Members of the Council shall be paid, out of moneys gathered for the purpose by Act of Parliament, such remuneration and allowances as may be prescribed.

(7) The Council shall—

- (a) Hold its meetings at least four times a year and in accordance with such procedure; and
- (b) Keep and furnish to the Minister such records of its meetings;

As may be prescribed or as may be directed by the Minister.

(8) Half the members of the Council shall constitute a quorum at any meeting of the Council.

(9) The Council shall have the following functions—

- (a) To keep under constant review the problem of domestic violence in Zimbabwe;
- (b) To take all steps to spread information and increase the awareness of the public on issues of domestic violence;
- (c) To promote research into the problem of domestic violence;
- (d) To promote the provision of services necessary to deal with all aspects of domestic violence and monitor their effectiveness;

- (e) To monitor the application and enforcement of this Act and any other law relevant to issues of domestic violence;
 - (f) To promote the establishment of safe-houses for the purpose of sheltering the victims of domestic violence, including their children and dependants, pending the outcome of court proceedings under this Act;
 - (g) To promote the provision of support services for complainants where the respondent who was the source of support for the complainant and her or his dependants has been imprisoned;
 - (h) To do anything necessary for the effective implementation of this Act.
- (10) The Council shall submit annual reports to the Minister on issues related to domestic violence and may append to such reports such recommendations for legislative or other action as it deems fit.
- (11) The Council shall appoint one or more committees on which it may confer such of the functions of the Council as it thinks fit: Provided that the placing of any functions in a committee in terms of this section shall not take away the Council of such functions and the Council may amend or rescind any decision of any committee in the exercise of its functions.
- (12) The Minister, with the approval of the Public Service Commission, shall assign as staff of the Council people employed in his or her Ministry as will enable the Council to properly carry out its functions in terms of this Act.

PART V

17 General provisions as to offences

- (1) Anyone who makes a false statement in an application or affidavit in terms of this act is liable to up to five years imprisonment or a fine or both.
- (2) If a respondent further commits any other offence except for the ones mentioned in the Act, such an offence will be regarded as an aggravating matter when considering a sentence to be imposed.
- (3) So that there is no confusion, it is declared that the prosecution of a respondent under this Act or any other law shall not prevent the complainant from seeking protection and redress in terms of this Act.

18 Special jurisdiction of local courts

- (1) Local courts shall have jurisdiction to deal with cases involving the following acts of domestic violence and, within the limits of their ordinary jurisdiction under Part IV of the Customary Law and Local Courts Act [*Chapter 7:05*], to issue protection orders in respect thereof—
 - (a) emotional, verbal and psychological abuse referred to in section 3(1)(c) and defined in section 3(2)(c)(i), (ii), (iii) and (iv); or
 - (b) Economic abuse referred to in section 3(1) (d) and defined in section 3(2) (d) (i) and (ii).

19 Regulations

(1) The Minister may make regulations prescribing anything which under this Act needs to be prescribed or which in his or her opinion is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without derogating from the generality of subsection (1), regulations made under that provision may provide for—

- (a)The form of applications in terms of this Act;
- (b)The form of warrants and orders issued in terms of this Act;
- (c)The method of service of documents in terms of this Act;
- (d)The procedure of the Council;
- (e)The functions of clerks or registrars of court under this Act.