

THE PROTECTION FROM DOMESTIC VIOLENCE (AMENDMENT) BILL
(No. XXVII of 2007)

Explanatory Memorandum

The object of this Bill is to amend the Protection from Domestic Violence Act in order to –

- (a) provide that the Court may hear an application for a protection order in such manner as it thinks fit;
- (b) provide that the Court, which has made a protection, occupancy or tenancy order, may make an ancillary order as to alimony;
- (c) increase the penalty for the offence of wilfully failing to comply with any order made under the Act;
- (d) provide that the Court may order a spouse who has wilfully failed to comply with an order made under the Act, to attend counselling sessions instead of sentencing him to a fine or imprisonment.

I. SEEBUN

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ARRANGEMENT OF CLAUSES

Clause

- 1. Short title
- 2. Interpretation
- 3. Section 3 of principal Act amended
- 4. Section 3A of principal Act amended
- 5. New section 8B added to principal Act
- 6. Section 13 of principal Act repealed and replaced
- 7. New section 14 added to principal Act
- 8. Section 16 of principal Act amended
- 9. Commencement

A BILL

To amend the Protection from Domestic Violence Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Protection from Domestic Violence (Amendment) Act 2007.

2. Interpretation

In this Act –

“principal Act” means the Protection from Domestic Violence Act.

3. Section 3 of principal Act amended

Section 3 of the principal Act is amended by repealing subsection (3) and replacing it by the following subsection –

(3) An application for a protection order shall be heard in such manner as the Court thinks fit.

4. Section 3A of principal Act amended

Section 3A of the principal Act is amended by repealing subsection (3) and replacing it by the following subsection –

(3) An application for a protection order shall be heard in such manner as the Court thinks fit.

5. New section 8B added to principal Act

The principal Act is amended by inserting immediately after section 8A, the following new section –

8B. Ancillary order for alimony

(1) Subject to subsections (2) and (3), the Court may, in addition to any order made under this Act and where it so deems appropriate, order a respondent spouse to pay to an aggrieved spouse and any child of the parties alimony on such terms and conditions as the Court thinks fit.

(2) An order made under this section –

(a) may, on the application of one of the parties, be varied or discharged;

- (b) shall, unless the Court otherwise directs, be deemed to be made for a period corresponding to the order to which it is ancillary;
- (c) shall, irrespective of the terms of the order, expire when the order to which it is ancillary expires or is discharged.

(3) No order for payment of alimony shall be made under subsection (1) where the respondent spouse is already paying alimony to the aggrieved spouse or the child of the parties by virtue of a judicial order.

6. Section 13 of principal Act repealed and replaced

Section 13 of the principal Act is repealed and replaced by the following section -

13. Offences

(1) Any person who wilfully fails to comply with any interim order, protection order, occupation order, tenancy order or ancillary order made under this Act shall commit an offence and shall, on conviction, be liable -

- (a) on a first conviction, to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years;
- (b) on a second or subsequent conviction, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

7. New section 14 added to principal Act

The principal Act is amended by inserting immediately after section 13, the following new section -

14. Order to attend counselling sessions following conviction

(1) Where a Court by or before which a person is convicted of an offence under section 13 is of opinion that having regard to the circumstances, including the nature of the offence and the character, antecedents, mental and psychological condition, age, health and home surroundings of the offender, it is expedient to do so, the Court may, instead of sentencing him, order him to attend counselling sessions organised by the Ministry.

(2) The order to attend counselling sessions shall be for such period, not exceeding 2 years, and on such terms and conditions as the Court thinks fit.

(3) The Court may require the Ministry to provide a report with a view to assisting the Court in determining the most suitable method of dealing with an offender.

(4) Before making an order under subsection (1), the Court shall explain the offender in a language he understands the effect of the order and that, if he fails in any way to comply with the order, he shall be liable to be sentenced for the original offence.

(5) The Court shall not order an offender to attend counselling sessions unless he expresses his willingness to comply with the order.

(6) The Permanent Secretary of the Ministry shall report any failure by an offender to comply with an order made under subsection (1) to the Court which made that order.

(7) On receipt of a report under subsection (5), the Court may –

(a) issue a summons to the offender requiring him to appear at a place and time specified in the summons;

(b) issue a warrant for the arrest of the offender.

(8) Where the Court is satisfied that the offender has failed to comply with an order made under subsection (1), it may sentence him for his original offence.

8. Section 16 of principal Act amended

Section 16 of the principal Act is amended by repealing subsection (2) and replacing it by the following subsection –

(2) No appeal shall lie against any decision concerning an interim order or an ancillary order.

9. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.
