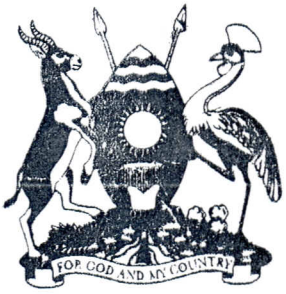

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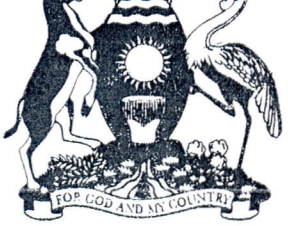
THE DOMESTIC VIOLENCE ACT 2010.



THE REPUBLIC OF UGANDA

I SIGNIFY my assent to the bill.

.....
President

Date of assent: 17/3/2010.

THE DOMESTIC VIOLENCE ACT, 2010.

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1. Commencement.
2. Interpretation.
3. Domestic relationships.

PART II—CONTROL OF DOMESTIC VIOLENCE.

4. Prohibition of domestic violence.
5. Consent not a defence in domestic violence.
6. Proceedings in local council courts.
7. Duties of police officers.
8. Duties of a practitioner.
9. Jurisdiction of magistrates courts.
10. Application for a protection order.
11. Issue of interim protection order.
12. Issue of protection order.
13. Contents of protection order.
14. Application for variation, revocation or discharge of orders.
15. Issue of copies of orders.
16. Enforcement of orders.
17. Jurisdiction of family and children court in relation to domestic violence.

PART III—MISCELLANEOUS

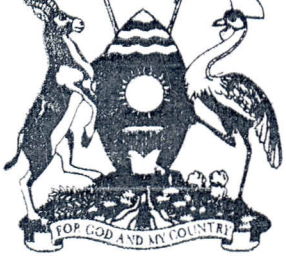
18. Appeals.
19. Regulations.
20. Amendment of Schedules.

SCHEDULES

FIRST SCHEDULE — Currency Point

SECOND SCHEDULE — Guiding Principles for Determining Compensation

THIRD SCHEDULE — Forms



THE REPUBLIC OF UGANDA

THE DOMESTIC VIOLENCE ACT 2010.

AN ACT to provide for the protection and relief of victims of domestic violence; to provide for the punishment of perpetrators of domestic violence; to provide for the procedure and guidelines to be followed by the court in relation to the protection and compensation of victims of domestic violence; to provide for the jurisdiction of court; to provide for the enforcement of orders made by the court; to empower the family and children court to handle cases of domestic violence and for related matters.

DATE OF ASSENT:

Date of Commencement:

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Commencement.

This Act shall come into force on a date appointed by the Minister by statutory instrument.

2. Interpretation.

In this Act, unless the context otherwise requires—

"court" means a magistrates court, a local council court or a family and children court;

"currency point" means the value of a currency point specified in the First Schedule;

"domestic relationship" means a relationship defined in section 3;

"domestic violence" constitutes any act or omission of a perpetrator which—

(a) harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the victim or tends to do so and includes causing physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse;

(b) harasses, harms, injures or endangers the victim with a view to coercing him or her or any other person related to him or her to meet any unlawful demand for any property or valuable security;

(c) has the effect of threatening the victim or any person related to the victim by any conduct mentioned in paragraph (a) or (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the victim;

"economic abuse" includes—

(a) deprivation of all or any economic or financial resources to which the victim is entitled under any law or custom, whether payable under an order of a court or otherwise or which the victim requires out of necessity including, but not limited to—

(i) household necessities for the victim and his or her children, if any;

(ii) property, jointly or separately owned by the victim; or

(iii) payment of rent related to the shared household and maintenance;

(b) disposal of household effects, alienation of assets whether movable or immovable, shares, securities, bonds or similar assets or property in which the victim has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the victim or his or her children or any other property jointly owned or separately held by the victim; and

(c) prohibiting or restricting access to resources or facilities which the victim is entitled to use or enjoy by virtue of the domestic relationship, including access to the shared household;

"emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards a victim, including but not limited to—

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

(b) repeated threats to cause emotional pain;

(c) the repeated exhibition of possessiveness or jealousy which is such as to constitute a serious invasion of the victim's privacy, liberty, integrity or security;

(d) any act or behaviour constituting domestic violence within the meaning of this Act where it is committed in the presence of a minor member of the family and which is considered as abuse against the minor member and likely to cause him or her injury;

"harass" means engaging in a pattern of conduct that induces fear of harm, annoyance and aggravation with the intention of inducing fear in a person including—

(a) repeatedly watching or loitering outside of or near the building where the victim resides, works, carries on business, studies or happens to be;

(b) repeatedly making abusive telephone calls or causing another person to make abusive telephone calls to the victim, whether or not a conversation ensues;

(c) repeatedly sending, delivering or causing the delivery of offensive or abusive letters, telegrams, packages, facsimiles, electronic mail, telephone text messages or similar objects to the victim; or

(d) repeatedly following, pursuing or accosting the victim with the intention of inducing fear, harm, annoyance or aggravation to the victim;

"intimidation" means uttering a threat or causing a victim to receive a threat, which induces fear;

"Minister" means the Minister responsible for Gender, Labour and Social Development;

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

"physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or which impairs the health or development of the victim; and includes assault, criminal intimidation and criminal force;

"practitioner" means a person registered under section 21 of the Medical and Dental Practitioners Act to practise medicine, surgery or dentistry and includes a clinical officer;

"protection order" means a court order prohibiting domestic violence, restricting a person from harassing or threatening another person or restraining a person from contacting or approaching another person;

"sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of another person;

"victim" means a person in a domestic relationship who directly or indirectly suffers threatened or actual domestic violence.

3. Domestic relationships.

(1) A domestic relationship means a family relationship, a relationship similar to a family relationship or a relationship in a domestic setting that exists or existed between a victim and a perpetrator and includes a relationship where—

(a) the victim is or has been married to the perpetrator;

(b) the perpetrator and the victim are family members related by consanguinity, affinity or kinship;

(c) the perpetrator and the victim share or shared the same residence;

(d) the victim is employed by the perpetrator as a domestic worker or house servant and the victim does or does not reside with the perpetrator;

(e) the victim is an employer of the perpetrator and does or does not reside with the perpetrator; or

(f) the victim is or was in a relationship determined by the court to be a domestic relationship.

(2) A court shall, in making a determination under subsection (1) (f), have regard to—

(a) the legal nature of the relationship;

(b) the amount of time the persons spend together;

(c) the place where the time is ordinarily spent;

(d) the manner in which that time is spent; and

(e) other than in the case of paragraph (a), the duration of the relationship.

4. Prohibition of domestic violence.

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

(2) A person in a domestic relationship who engages in domestic violence commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or to both.

(3) The court may, in addition to imposing a fine or imprisonment, order the offender in a case of domestic violence to pay compensation to the victim of an amount determined by the court.

(4) In determining the compensation under subsection (3), the court shall be guided by the principles in the Second Schedule.

5. Consent not a defence in domestic violence.

The consent of the victim shall not be a defence to a charge of domestic violence under this Act.

6. Proceedings in local council courts.

(1) A complaint of domestic violence may be made to a local council court where the victim or perpetrator resides.

(2) Upon receipt of a complaint, the court shall make a record of the complaint and proceed to hear the matter in the manner prescribed under the Local Council Courts Act, 2006.

(3) In recording a case of domestic violence, the local council court shall record the following matters—

(a) the name, sex, age, tribe, religion and disability, if any and the occupation and marital status of both the victim and perpetrator;

(b) the name, sex, age, tribe, religion and disability, if any and occupation of the victim's representative if any, and the capacity in which the complaint is made;

(c) the usual place of residence of the victim and the perpetrator;

(d) the names, sex and ages of the children of the victim and the perpetrator, if any;

(e) the nature of the alleged domestic violence;

(f) the date or time frame of the alleged domestic violence;

(g) whether it is the first time of reporting by the victim or his or her representative, or how many times the matter has been previously reported; and

(h) any attempts to settle the matter out of court.

(4) The details regarding the manner of hearing cases of domestic violence by a local council court shall be prescribed by regulations made under this Act.

(5) A local council court may, in the exercise of its jurisdiction under this section, make any of the following orders for the victim or against the perpetrator—

(a) caution;

(b) apology to the victim;

(c) counselling;

(d) community service;

(e) a fine not exceeding twenty five currency points;

(f) compensation;

(g) reconciliation;

(h) declaration;

(i) restitution;

(j) attachment and sale; or

(k) any other order provided for under the Local Council Courts Act, 2006.

(c) the usual place of residence of the victim and the perpetrator;

(d) the names, sex and ages of the children of the victim and the perpetrator, if any;

(e) the nature of the alleged domestic violence;

(f) the date or time frame of the alleged domestic violence;

(g) whether it is the first time of reporting by the victim or his or her representative, or how many times the matter has been previously reported; and

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(f) compensation;

(g) reconciliation;

(h) declaration;

(i) restitution;

(j) attachment and sale; or

(k) any other order provided for under the Local Council Courts Act, 2006.

(6) The local council court shall make a written referral to the police and the magistrates court where—

(a) the perpetrator is a second or repeat offender;

(b) in the opinion of the court, taking into account all the circumstances of the case, the perpetrator is likely to inflict further harm on the victim; and

(c) in the opinion of the court, the degree and nature of the violence warrants the involvement of the police and the court.

(7) In all complaints of domestic violence, the local council court shall inquire into and establish whether there are children involved in the domestic relationship.

(8) Where it is established that there is a child in the domestic relationship in respect of which a complaint is made, the local council court shall make a written order to the Probation and Social Welfare Officer to make an inquiry and take any necessary action regarding the welfare of the child in accordance with the provisions of the Children Act.

(9) Where a member of the local council court or the executive committee of a local government council has reason to believe that there is an act of domestic violence within his or her jurisdiction and a complaint has not been lodged by any person, the member shall notify the Probation and Social Welfare Officer, requesting him or her to make inquiries and take further action.

(10) The local council court shall treat all cases of domestic violence as matters of urgency and shall hear the cases as soon as possible and in any case, not later than forty eight hours after the filing of the complaint.

(11) For the purposes of this section, local council courts may hear cases of domestic violence on days which are not ordinarily working days.

(12) A victim or perpetrator who is not satisfied with the decision of the local council court may appeal against the decision in the manner provided for under Part X of the Local Council Courts Act, 2006.

7. Duties of police officers.

(1) Notwithstanding section 6, a complaint may be made to a police officer.

(2) A police officer to whom a complaint of domestic violence is made or who investigates the complaint shall—

(a) assist the victim, including giving assistance or advice in obtaining shelter;

(b) where signs of physical or sexual abuse are evident, ensure that the victim undergoes a medical examination and receives medical treatment;

(c) advise the victim of the right to apply for relief under this Act and the right to lodge a criminal complaint; and

(d) offer procedural guidance and any assistance as may be necessary to ensure the well being of the victim, the victim's representative and other witnesses.

(3) A police officer may record a statement by the victim or the victim's representative on the nature of the domestic violence.

(4) Where a victim or victim's representative desires, the statement on the nature of domestic violence shall be taken by a police officer of the same sex as that of the victim.

8. Duties of a practitioner.

A practitioner who reasonably suspects that a person under his or her care is a victim of domestic violence shall assist the victim in the following manner—

(a) offer the requisite medical assistance to the victim;

(b) accurately document the visit of the victim;

(c) inform the victim of options available within the judicial system to the victim; or

(d) make himself or herself available to testify in court regarding the case where necessary.

9. Jurisdiction of magistrates courts.

(1) Every magistrates court may hear and determine a matter of domestic violence under this Act.

(2) The Court may, in the exercise of its jurisdiction under subsection (1), issue a protection order.

(3) In hearing matters of domestic violence, the magistrates court shall apply the procedure prescribed by the Family and Children Court Rules.

10. Application for a protection order.

(1) A victim or the representative of a victim may apply to a magistrates court for a protection order.

(2) The application for a protection order shall be supported by an affidavit and any reports or documents to be relied upon shall be attached to the application.

(3) The application shall be in Form 1 specified in the Third Schedule.

(4) The court shall, on receiving an application under this section, issue summons to the respondent directing him or her to appear in court on the date named in the summons in Form 2 specified in the Third Schedule.

(5) An application for a protection order shall be heard by the court within forty eight hours after the filing of the application.

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(6) An application may be brought outside ordinary court hours or on a day which is not an ordinary court day, where the court is satisfied that the victim may suffer undue hardship if the application in not dealt with immediately.

11. Issue of interim protection order.

(1) The court shall issue an interim protection order, where the court is satisfied that, *prima facie*—

(a) the perpetrator has committed, is committing or is threatening to commit an act of domestic violence; and

(b) it is necessary or desirable to issue an immediate order to protect the victim from harm or discomfort or inconvenience, as a result of such domestic violence.

(2) An interim protection order may, where appropriate, contain any direction, prohibition or award.

(3) An interim order shall specify a hearing date for the application for a protection order.

(4) The maximum duration for an interim order is three months, but the court may prescribe a lesser period.

(5) The court shall serve the victim or the victim's representative with a certified copy of an interim protection order or forward the order to the person responsible at the police station nominated by the victim or the victim's representative.

(6) An application for a protection order shall not in any way bar criminal proceedings against a perpetrator.

(7) Where appropriate, the court may, in addition to any other remedy provided for under this Act, order that the victim and the perpetrator and any other affected member of the family be subjected to counseling, mediation or any other intervention that the court deems fit.

12. Issue of protection order.

(1) On the hearing date specified in an interim protection order, the court may issue a protection order where the court is satisfied that an act of domestic violence has been committed, is threatened or is being committed by the perpetrator.

(2) A protection order may be issued exparte if the court is satisfied that the perpetrator has been served with notice of the application for the order.

(3) A protection order shall be served upon the respondent immediately, but not later than forty eight hours.

(4) The court shall supply a certified copy of a protection order issued under subsection (1) to—

(a) the victim or the victim's representative; and

(b) the responsible person at the police station nominated by the victim or the victim's representative.

13. Contents of protection order.

(1) A protection order may, where appropriate—

(a) prohibit the perpetrator from committing or enlisting the help of another person to commit an act of domestic violence;

(b) direct the perpetrator to stay away from the premises or place where the victim resides or any part of the premises, if the prohibition is in the best interest of the victim;

(c) prohibit the perpetrator from entering or approaching any place or premises where the victim works, frequents, attends or any part of the premises or place;

(d) direct the perpetrator to pay maintenance in respect of the victim's needs or the needs of any child or dependent of the perpetrator, including necessaries;

(e) award the temporary custody of any child or dependent of the perpetrator to any person or institution and regulate rights of access by the perpetrator to the child or dependant;

(f) direct the perpetrator to afford the victim or any child or dependent of the victim, access to their place of residence and use of the facilities associated with it;

(g) direct the perpetrator to do or omit to do any act or thing which the court considers necessary or desirable for the well being of the victim or any child or dependant of the victim.

(2) The court may in issuing a protection order, where it considers it expedient to do so, issue an order to the perpetrator to vacate the matrimonial home or other home.

(3) An order to vacate premises may only be issued by the court after consideration of a social report prepared by the social welfare officer.

(4) A protection order shall remain in force until it is varied or revoked by a competent court.

14. Application for variation, revocation or discharge of orders.

(1) A court may vary, revoke or discharge an interim protection order or a protection order on an application on notice by a complainant or respondent.

(2) Where an application is made under this section for the variation, revocation or discharge of an interim protection order or protection order, the court shall fix a hearing date as soon as practical but not later than thirty days after the filing of the application, except where there are special circumstances.

(3) Where the court is satisfied that good cause has been shown, it may vary, revoke or discharge any interim protection order or protection order or it may extend the order.

(4) The court shall give notice to interested parties of any revocation, variation or extension granted under this section.

(5) An application under this section shall be in Form 3 specified in the Third Schedule.

15. Issue of copies of orders.

A victim, a victim's representative or a police officer may apply to the court for a certified copy of an interim protection order or a protection order, if the copy which was previously issued is lost or destroyed.

16. Enforcement of orders.

(1) Where the perpetrator breaches any term or condition of an interim protection order or a protection order, the victim or the victim's representative may apply to court for a remedy.

(2) An application made under subsection (1) shall be accompanied by one or more affidavits made by a person or persons who can depose to the facts alleged.

(3) The application under subsection (2) shall be in Form 4 specified in the Third Schedule.

(4) A person who fails to comply with the terms and conditions of an order commits an offence and is liable on conviction to a fine not exceeding fortyeight currency points or imprisonment not exceeding two years or to both.

(5) Notwithstanding subsection (4), the court may give any other remedy as it considers fit.

17. Jurisdiction of family and children court in relation to domestic violence.

(1) Notwithstanding anything in this Act, a family and children court may hear and determine a matter of domestic violence under this Act, whether or not it involves a child.

(2) For the avoidance of doubt, a family and children court may issue an interim protection order or a protection order in the same manner as a magistrates court.

(3) In hearing matters of domestic violence, the family and children court shall apply the procedure prescribed by the Family and Children Court Rules, subject to the necessary modifications.

(4) For the avoidance of doubt, the Rules Committee may make rules for the practice and procedure of the family and children court in the exercise of its jurisdiction under this section.

(5) Pending the making of rules of court under this section to regulate the exercise by the family and children court of the jurisdiction conferred upon it by this section, sections 11 to 16 of this Act, shall, with necessary modifications apply to the family and children court.

(6) Subject to any rules of court made under this section, Forms 5,6,7 and 8 specified in the Third Schedule shall apply as appropriate to proceedings of the family and children court.

PART III—MISCELLANEOUS

18. Appeals.

The procedure for appeals under this Act shall, with the necessary modifications, be that provided for in the Local Council Courts Act, 2006, the Civil Procedure Act and the Magistrates Courts Act.

19. Regulations.

The Minister may make regulations for the better carrying into effect of the provisions of this Act.

20. Amendment of Schedules.

(1) The Minister may, by statutory instrument with the approval of the Cabinet, amend the First Schedule.

(2) The Minister may, by statutory instrument, amend the Second and Third Schedules.

SCHEDULES.