

**DOMESTIC VIOLENCE AND MATRIMONIAL
PROCEEDINGS ACT, 1998**

Principal Act

Act. No. 1998-13

Commencement

29.1.1998

Assent

ARRANGEMENT OF SECTIONS.

Section

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AN ACT TO MAKE PROVISION FOR MATRIMONIAL INJUNCTIONS, AND TO PROVIDE THE POLICE WITH POWERS OF ARREST FOR THE BREACH OF SUCH INJUNCTIONS IN CASES OF DOMESTIC VIOLENCE.

Title.

1. This Act may be cited as the Domestic Violence and Matrimonial Proceedings Act.

Interpretation.

2. In this Act, unless the context shall otherwise require -

"child" has the meaning given to it in section 2 of the Maintenance Act;

"cohabitees" means a man and a woman not married to each other living together as man and wife: and "cohabitee" shall be construed accordingly;

"court" means the magistrates' court or the Supreme Court;

"matrimonial home" means a home in which the parties to a marriage live or have lived together as husband and wife and whether or not a particular place of residence is or has been the matrimonial home is, unless the matter has previously been determined by mutual agreement, a matter of fact evidenced by periods of time spent by the parties there together;

"molest" includes -

- (a) behaviour which is violent; and
- (b) behaviour which does not amount to violent behaviour.

Matrimonial injunctions.

3.(1) On an application to the court by a party to a marriage, the court shall have jurisdiction to grant an injunction containing one or more of the following provisions -

- (a) a provision restraining the other party to the marriage from molesting the applicant;
- (b) a provision restraining the other party to the marriage from molesting a child living with the applicant;

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- (c) a provision excluding the other party to the marriage from the matrimonial home or a part of the matrimonial home or from a specified area in which the matrimonial home is included;
- (d) a provision requiring the other party to the marriage to permit the applicant to enter and remain in the matrimonial home or a part of the matrimonial home;

whether or not any other relief is sought in the proceedings.

(2) Sub-section (1) shall apply to cohabittees as it applies to the parties to a marriage and any reference to the matrimonial home shall be construed accordingly.

Arrest for breach of injunction.

4.(1) Where, on an application by a party to a marriage, the court grants an injunction containing a provision (in whatever terms) -

- (a) restraining the other party to the marriage from using violence against the applicant, or
- (b) restraining the other party from using violence against a child living with the applicant, or
- (c) excluding the other party from the matrimonial home or from a specified area in which the matrimonial home is included,

the court may, if it is satisfied that the other party has caused or may cause actual bodily harm to the applicant or, as the case may be, to the child concerned and considers that he is likely to do so again, attach a power of arrest to the injunction.

(2) References in sub-section (1) to the parties to a marriage include references to cohabittees, and any reference in that sub-section to the matrimonial home shall be construed accordingly.

(3) If, by virtue of sub-section (1), a power of arrest is attached to an injunction, a police officer may arrest without warrant a person whom he has reasonable cause for suspecting of being in breach of such a provision of that injunction as falls within paragraph (a) to (c) of sub-section (1) by reason of that person's use of violence or, as the case may be, of his entry into any premises or area.

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(4) Where a power of arrest is attached to the injunction and the person to whom the injunction is addressed is arrested under subsection (3) -

- (a) he shall be detained and brought before the court within a period of 24 hours beginning at the time of his arrest, and
- (b) the court before whom he is brought may remand him,

and he shall not be released within that period except on the direction of the court.

(5) In reckoning for the purposes of sub-section (4) any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Saturday, Sunday or a bank or public holiday.

Jurisdiction of magistrates' court for breach of injunction.

5. A person who is in breach of an injunction or other order of the court to which this Act applies, shall be liable to imprisonment for a period not exceeding 6 months or to a fine not exceeding level level three on the standard scale, or to both.

Rights concerning the matrimonial home.

6.(1) Except so far as the exercise by one party to the marriage of a right to occupy the matrimonial home is suspended or restricted by virtue of an injunction granted under section 3, nothing in this Act shall be construed as affecting any estate or beneficial interest of -

- (a) either party to the marriage, or
- (b) any other person,

in the matrimonial home.

(2) Sub-section (1) shall apply to cohabitants as it applies to the parties to a marriage and any reference to the matrimonial home shall be construed accordingly.

(3) For the purposes of this section, "person" shall include the Crown.

Time limit on the operation of injunctions.

7. Where the court grants an injunction under section 3(1), the operation of that injunction shall not exceed three months:

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Provided that at the end of that period the court may, if it is of the opinion that there remains a danger to the applicant or to a child living with the applicant, extend the operation of the injunction for no more than two further