



Isle of Man

Ellan Vannin

AT 12 of 2020

DOMESTIC ABUSE ACT 2020



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**Isle of Man***Ellan Vannin*

DOMESTIC ABUSE ACT 2020

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AN ACT to make fresh provision about domestic abuse; to make consequential and minor amendments to the *Land Registration Act 1982* and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

PART 1 — INTRODUCTION

1 Short title

The short title of this Act is the Domestic Abuse Act 2020.

2 Commencement

- (1) This Act comes into operation on such day or days as the Department may by order appoint.¹
- (2) An order under subsection (1) may include such consequential, incidental, supplemental, transitional and transitory provision as appears to the Department to be necessary or expedient.

3 Interpretation

HC Bill 2017-19/422/52

- (1) In this Act, —

“**the controlling or coercive behaviour offence**” has the meaning given by section 36(1);

“**the Department**” means the Department of Home Affairs;

“**domestic abuse protection notice**” has the meaning given by section 7(2);

“domestic abuse protection order” has the meaning given by section 14(1)

“electronic monitoring requirement” has the meaning given by section 22(6);

“family proceedings” means, —

- (a) proceedings in the High Court under any inherent jurisdiction of that Court in relation to wardship, maintenance or the upbringing of children,
- (b) proceedings under Part 1, 2, 4 or 5 of the *Children and Young Persons Act 2001*;
- (c) proceedings under the *Adoption Act 1984*;
- (d) proceedings under Part 1, 2, 3, 4 or 5 of the *Matrimonial Proceedings Act 2003*; and
- (e) proceedings under Chapter 2 or 3 of Part 2, or under Chapter 2 of Part 3 of the *Civil Partnership Act 2011*;

“home address”, in relation to a person, means, —

- (a) the address of the person’s sole or main residence in the Island, or
- (b) if the person has no such residence, the address or location of a place in the Island where the person can regularly be found;

“police officer” means a person serving in the office of constable in the Isle of Man Constabulary (and any reference to a sergeant or inspector is accordingly to be construed as a reference to such a person holding the relevant rank in the Constabulary);

“relative” is to be construed in accordance with subsection (2);

“requirement”, in relation to a domestic abuse protection order, is to be read in accordance with section 22;

“vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from violence, abuse, neglect or exploitation is significantly impaired through physical or mental disability or illness, old age, emotional fragility or distress, or otherwise; and for that purpose, the reference to being impaired is to being temporarily or indefinitely impaired.

(2) In this Act **“relative”**, in relation to a person, means, —

- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse, former spouse, civil partner or former civil partner, or
- (b) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or civil partnership) of that person or of that person’s spouse, former spouse, civil partner or former civil partner,

and includes, in relation to a person (“A”) who is cohabiting or has cohabited with another person (“B”), any person who would fall within paragraph (a) or (b) if A and B were (or had been) married to each other.

For the purposes of this subsection, treat any person who has been adopted as the legitimate child of his or her adoptive parent and also as the child of his or her natural parents.

- (3) See also, —
 - (a) section 4 (definition of “domestic abuse”); and
 - (b) section 5 (definition of “personally connected”).

4 Definition of “domestic abuse”

HC Bill 2017-19/422/1

- (1) This section defines what is meant by “**domestic abuse**” in this Act.
- (2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if, —
 - (a) A and B are personally connected to each other, and
 - (b) the behaviour is abusive.
- (3) Behaviour is “**abusive**” of B if it consists of any of the following —
 - (a) physical or sexual abuse;
 - (b) violent or threatening behaviour;
 - (c) controlling or coercive behaviour;
 - (d) economic abuse (see subsection (5));
 - (e) psychological, emotional or other abuse (see subsection (6));and it does not matter whether the behaviour consists of a single incident or a course of conduct.
- (4) In subsection (3)(b) the reference to violent behaviour includes both sexual and physical violence.
- (5) “**Economic abuse**” means any behaviour that has a substantial adverse effect on B’s ability to, —
 - (a) acquire, use or maintain money or other property, or
 - (b) obtain goods or services.
- (6) The following are examples of abuse falling within subsection (3)(e)—
 - (a) making B dependent upon, or subordinate to, A;
 - (b) isolating B from friends, family members or other sources of social interaction and support;
 - (c) controlling or regulating B’s day-to-day activities;
 - (d) depriving B of, or restricting B’s freedom of action;

- (e) making B feel frightened, humiliated, degraded, punished or intimidated.
- (7) For the sake of clarity, behaviour can be abusive of B as a result of subsection (3)(e) whether or not the behaviour actually causes B to experience any of the relevant effects in subsection (6), but this does not prevent evidence from being adduced, in proceedings for an offence under section 35 or 36, about any effects which B actually experienced.
- (8) None of the paragraphs of subsection (3), (5) or (6) (as the case requires) is to be taken to limit the meaning of any other paragraph of that subsection.
- (9) For the purposes of this Act —
 - (a) A's behaviour may be behaviour “**towards**” B despite the fact that it consists of behaviour directed at another person (for example, B's child); and
 - (b) references to a person being abusive towards another are to be read in the light of this section.

In paragraph (a) “child” means a person under the age of 18.

- (10) For the meaning of “personally connected” see section 5.

5 Definition of “personally connected”

HC Bill 2017-19/422/2 and P1996/27/63 and drafting.

- (1) For the purpose of this Act two people are “**personally connected**” to each other if any of the following applies, —
 - (a) they are, or have been, married to each other;
 - (b) they are, or have been, civil partners of each other;
 - (c) they have agreed to marry one another (whether or not the agreement has been terminated);
 - (d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
 - (e) they are, or have been, in an intimate personal relationship with each other;
 - (f) there is a child in relation to whom they each have a parental relationship (see subsection (2));
 - (g) they are relatives; or
 - (h) one has been fostered with the other (whether under the service established under section 24A of the *Children and Young Persons Act 2001* or under a private fostering arrangement within Part 7 of that Act).
- (2) For subsection (1)(f) a person (“A”) has a parental relationship in relation to a child if, —
 - (a) A is a parent or guardian of the child, or

- (b) A has, or has had, parental responsibility for the child, or would have had such responsibility had A been married to a person with whom A lived.
- (3) In this section, —
 - “child” means a person under the age of 18 years;
 - “civil partnership agreement” has the meaning given by section 71 of the *Civil Partnership Act 2011*;
 - “parental responsibility” has the same meaning as in the *Children and Young Persons Act 2001*.
- (4) Section 6 makes further provision about proving that persons are personally connected to each other.

6 **Presumption that persons are personally connected**

S2018/5/7 and drafting

- (1) In proceedings for an offence under this Act, the matter of two persons being personally connected is to be taken as established by virtue of its being stated in the complaint or the information alleging the offence, unless the matter is challenged in accordance with subsection (2).
- (2) The matter must be challenged —
 - (a) before a plea is entered, or
 - (b) in the case of a matter to be tried on information, before an indication of plea is taken,unless the court in which the offence is tried grants permission for a later challenge.

PART 2 — DOMESTIC ABUSE

DIVISION 1 — DOMESTIC ABUSE PROTECTION NOTICES

7 **Power to give a domestic abuse protection notice**

HC Bill 2017-19/422/19

- (1) A police officer may give a domestic abuse protection notice to a person (“P”) if conditions A, B and (if appropriate) C are met.
- (2) A “**domestic abuse protection notice**” is a notice prohibiting P from being abusive towards a person aged 16 or over to whom P is personally connected.

Section 8 contains further details about the provision that may be made by such notices.

- (3) Condition A is that the police officer has reasonable grounds for believing that P has been abusive towards a person aged 16 or over to whom P is personally connected.
- (4) Condition B is that the police officer has reasonable grounds for believing that it is necessary to give the notice to protect that person from domestic abuse, or the risk of domestic abuse, carried out by P.
- (5) Condition C is that the police officer must, before giving the notice, obtain the consent of another police officer who is of, or above, the rank of sergeant.
- (6) It does not matter whether the abusive behaviour referred to in subsection (3) took place in the Island or elsewhere.
- (7) A domestic abuse protection notice may not be given to a person who is under the age of 14.

Note: section 15(3) and section 16 make further provision about domestic abuse protection orders where a domestic abuse protection notice has been given.

8 Provision that may be made by notice

HC Bill 2017-19/422/20

- (1) A domestic abuse protection notice may provide that the person to whom the notice is given (“P”)—
 - (a) may not contact the person for whose protection the notice is given;
 - (b) may not come within a specified distance of any premises in the Island in which that person lives.
- (2) If P lives in premises in the Island and the person for whose protection the notice is given also lives in those premises, the notice may also contain provision, —
 - (a) prohibiting P from evicting or excluding that person from the premises;
 - (b) prohibiting P from entering the premises;
 - (c) requiring P to leave the premises;
 - (d) prohibiting P from taking any step or any specified step which would prevent the person for whose protection the notice is given from occupying the premises (for example, by P surrendering the tenancy of the premises).
- (3) If P owns premises in the Island (whether alone or as a joint tenant or a tenant in common with another), and the person for whose protection the notice is given resides in those premises, but P does not, the notice may also contain provision, —

- (a) prohibiting P (or any other joint tenant or tenant in common) from evicting the person for whose protection the notice is given from the premises;
 - (b) prohibiting P, or any other joint tenant or tenant in common from entering the premises;
 - (c) prohibiting P or any other joint tenant or tenant in common from taking any step or any specified step which would prevent the person for whose protection the notice is given from occupying the premises.
- (4) In this section “specified” means specified in the notice.

9 Matters to be considered before giving a notice

HC Bill 2017-19/422/21

- (1) Before giving a domestic abuse protection notice to a person (“P”), a police officer must, among other things, consider the following, —
- (a) the welfare of any vulnerable adult and that of any person under the age of 18 whose interests the officer considers relevant to the giving of the notice (whether or not that person is a person to whom P is personally connected);
 - (b) the opinion of the person for whose protection the notice would be given, and of any person who is a joint tenant or tenant in common with P who would be affected by the notice, about the giving of the notice;
 - (c) any representations made by P about the giving of the notice;
 - (d) in a case where the notice includes provision relating to premises lived in by P and the person for whose protection the notice would be given, the opinion of any relevant occupant about the giving of the notice.
- (2) In subsection (1)(d) “relevant occupant” means a person other than P or the person for whose protection the notice would be given, —
- (a) who lives in the premises; and
 - (b) who is personally connected to P or to the person for whose protection the notice would be given.
- (3) The officer must take reasonable steps to discover the opinions mentioned in subsection (1).
- (4) It is not necessary for the person for whose protection a domestic abuse protection notice is given to consent to the giving of the notice.

10 Further requirements in relation to notices

HC Bill 2017-19/422/22(1) to (4)

- (1) A domestic abuse protection notice must be given in writing.

- (2) A domestic abuse protection notice given to a person suspected of domestic abuse (“P”) must state, —
- (a) the grounds on which it has been given,
 - (b) that a police officer may arrest P without warrant if the police officer has reasonable grounds for believing that P is in breach of the notice,
 - (c) that an application under section 15 for a domestic abuse protection order will be heard by a court of summary jurisdiction within 14 days of the day on which the domestic abuse protection notice is given, and that a notice of the hearing will be given to P,
 - (d) that the notice continues in effect until that application has been determined or withdrawn, and
 - (e) the provision that a court of summary jurisdiction may include in a domestic abuse protection order.
- (3) The notice must be served on P personally by a police officer.
- (4) If a domestic abuse protection notice includes provision which relates to a person who is a tenant in common with P, or a joint tenant with P of the relevant premises, (such person being referred to as “T”) and which prohibits T, —
- (a) from evicting or excluding the person for whose protection the notice was given from the premises;
 - (b) from taking any step or any specified step which would prevent the person for whose protection the notice is given from occupying the relevant premises (for example, by surrendering the tenancy of the relevant premises),
- a copy of the notice must be served personally on T by a police officer.
- (5) On serving a notice on P or T, the police officer must ask that person for an address at which that person may be given notice of the hearing of the application for the domestic abuse protection order.
- (6) Where a police officer serves a notice on T, the officer must inform T of the effect of section 12 (breach of notice).

11 Duration of notice

Drafting

A domestic abuse protection notice remains in operation until the earliest of the following to occur, —

- (a) a police officer notifies a court of summary jurisdiction that the application for a domestic abuse protection order is no longer being sought;
- (b) a court of summary jurisdiction makes a domestic abuse protection order on the application (see section 16);

- (c) a court of summary jurisdiction dismisses the application for such an order; or
- (d) unless a court of summary jurisdiction has adjourned an application for a domestic abuse protection order, a period of 14 days has elapsed since the service of the notice.

12 Breach of notice

HC Bill 2017-19/422/23(1), (2) (4) and (6) and drafting (the Note)

- (1) A person commits an offence if the person, —
 - (a) does anything which a domestic abuse protection notice prohibits the person from doing; or
 - (b) omits to do anything which the person is required to do under such a notice.

This subsection is subject to any other provision of this Act making more specific provision for conduct in relation a domestic abuse protection notice to be an offence.

Maximum penalty (summary) 12 months' custody, a level 5 fine or both.

- (2) Without prejudice to subsection (1), if a police officer has reasonable grounds for believing that a person is in breach of a domestic abuse protection notice, the police officer may arrest the person without warrant.
- (3) A person arrested by virtue of subsection (2) must be held in custody and brought before a court of summary jurisdiction, —
 - (a) before the end of the period of 24 hours beginning with the time of the arrest, or
 - (b) if earlier, at the hearing of the application for a domestic abuse protection order. (see section 15(3)).
- (4) If the person is brought before the court as mentioned in subsection (3)(a), the court may remand the person.

For power to remand a person brought before the court as mentioned in subsection (3)(b), see section 16(8).

Note: under section 49 of the Interpretation Act 2015 non-working days are to be disregarded in computing a period of time of 6 days or less.

13 Remand of person arrested for breach of notice

HC Bill 2017-19/422/23 (and see also clause 27 *ibid.*)

- (1) This section applies where under section 12(4) a court of summary jurisdiction remands a person who has been given a domestic abuse protection notice or a copy of such a notice.

- (2) In the application of section 84(4) of the *Summary Jurisdiction Act 1989* to such a remand, the reference to the “other party” is to be read as a reference to the police officer who gave the notice.
- (3) If the court has reason to suspect that a medical report will be required, the power to remand a person may be exercised for the purpose of enabling a medical examination to take place and a report to be made.
- (4) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.
- (5) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.
- (6) If the court has reason to suspect that the person is suffering from mental disorder within the meaning of the *Mental Health Act 1998*, the court has the same power to make an order under section 23 of the *Summary Jurisdiction Act 1989* (remand to hospital for medical reports) as it has under that section in the case of a person charged with an offence punishable with imprisonment.
- (7) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with any requirements that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

DIVISION 2 — DOMESTIC ABUSE PROTECTION ORDERS

14 Meaning of “domestic abuse protection order”

HC Bill 2017-19/422/24

- (1) In this Part a “**domestic abuse protection order**” means an order which, for the purpose of preventing a person (referred to in this Division as “P”) from being abusive towards a person aged 16 or over to whom P is personally connected, —
 - (a) prohibits P from doing things described in the order, or
 - (b) requires P to do things described in the order.
- (2) A domestic abuse protection order may also contain provision, —
 - (a) prohibiting a person who is P’s tenant in common or a joint tenant with P (such person being referred to in this Division as “T”) from doing either of the things mentioned in section 22(5)(a); or
 - (b) prohibiting T from acting as mentioned in section 22(5)(d),if the conditions in section 20 are satisfied.
- (3) A domestic abuse protection order may be made, —
 - (a) on application (see section 15), or
 - (b) in the course of certain proceedings (see section 17).

- (4) Section 18 sets out the conditions for making a domestic abuse protection order.

15 Domestic abuse protection orders on application

HC Bill 2017-19/422/25 and drafting

- (1) A court may make a domestic abuse protection order under this section against P on an application made to it in accordance with this section, if section 18 is satisfied.
- (2) An application for an order under this section may be made by, —
- (a) the person for whose protection the order is sought;
 - (b) a police officer of or above the rank of inspector (but subject to subsection (3));
 - (c) a person specified in regulations made by the Department; or
 - (d) any other person with the leave of the court to which the application is to be made.

Tynwald procedure for regulations under paragraph (c) – approval required,

- (3) Where P is given a domestic abuse protection notice under section 7, a police officer must apply for a domestic abuse protection order against P.

But an application under this subsection may be made only if it has been authorised in writing by a police officer of, or above, the rank of inspector.

For further provision about such applications, see section 16.

- (4) An application for an order under this section must be made by complaint to a court of summary jurisdiction, unless subsection (5) applies.
- (5) In a case where, —
- (a) P, and the person for whose protection the order is sought, are parties to any family or civil proceedings, and
 - (b) the court would have power to make a domestic abuse protection order under section 17 in those proceedings without an application being made,

an application for an order under this section may be made in those proceedings by the person for whose protection the order is sought.

- (6) Where an application is made to a court of summary jurisdiction in accordance with this section, —
- (a) the court may adjourn the hearing of the application;
 - (b) on the hearing of the application, section 59 of the *Summary Jurisdiction Act 1989* (summons to witness and warrant for arrest) does not apply in relation to the person for whose protection the order is sought, unless the person has given oral or written evidence in the course of the proceedings.

16 Applications where domestic abuse protection notice has been given

HC Bill 2017-19/422/26 and drafting (time limits)

- (1) This section applies where, as a result of P being given a domestic abuse protection notice under section 7, a police officer is required by section 15(3) to apply for a domestic abuse protection order against P.
- (2) The application must be heard by a court of summary jurisdiction within 14 days of the notice being given to P.
- (3) P must be given a notice of the hearing of the application.
- (4) The notice under subsection (3) is to be treated as having been given if it has been left at the address given by P under section 10(5).
- (5) But if the notice has not been given because P did not give an address under section 10(5), the court may hear the application if satisfied that a police officer has made reasonable efforts to give P the notice.
- (6) If the court adjourns the hearing of the application, —
 - (a) subject to paragraph (b), the notice continues in effect until the application has been determined or withdrawn; but
 - (b) the court may vary the terms of prohibitions and restrictions contained in the notice and if it does so, from that time the notice as varied is to be treated as substituted for the original notice.
- (7) If the court exercises the powers in subsection (6)(b) it must cause a document containing the terms of the notice as varied to be served on P in the same way as the original notice.
- (8) If, —
 - (a) P is brought before the court at the hearing of the application as a result of P's arrest by virtue of section 12(2) (arrest for breach of domestic abuse protection notice), and
 - (b) the court adjourns the hearing,the court may remand P.
- (9) Section 13 applies in relation to a remand under subsection (8) as it applies in relation to a remand under section 12(4), but as if the reference in section 13(2) to the police officer who gave the notice were a reference to the police officer who applied for the order.

17 Domestic abuse protection orders otherwise than on application

HC Bill/ 2017-19/422/28 (omitting subsection (4))

- (1) A court may make a domestic abuse protection order under this section in any of the cases set out below if section 18 is satisfied.
- (2) The High Court or a court of summary jurisdiction may make a domestic abuse protection order against P in any family proceedings to which both

P and the person for whose protection the order would be made are parties.

- (3) Where P has been convicted of an offence, the court dealing with P for that offence may (as well as sentencing P or dealing with P in any other way) make a domestic abuse protection order against P.
- (4) A court by or before which a person is acquitted of an offence may make a domestic abuse protection order against the person.
- (5) Where the Staff of Government Division allows a person's appeal against conviction, it may make a domestic abuse protection order against the person.
- (6) The High Court may make a domestic abuse protection order against P in any relevant proceedings to which both P and the person for whose protection the order would be made are parties.
- (7) But a court may make a domestic abuse protection order under this section only if satisfied that it is in the interests of justice to do so.
- (8) In subsection (6) "relevant proceedings" means proceedings of a description specified in an order made by the Department after consulting the Deemsters.

Tynwald procedure for an order under this subsection – approval required.

18 Conditions for making an order

HC Bill 2017-19/422/29

- (1) The court may make a domestic abuse protection order under section 15 or 17 against P if conditions A and B are met.
- (2) Condition A is that the court is satisfied that P has been abusive towards a person aged 16 or over to whom P is personally connected.
- (3) Condition B is that the order is necessary and proportionate to protect that person from domestic abuse, or the risk of domestic abuse, carried out by P.
- (4) It does not matter, —
 - (a) whether the abusive behaviour referred to in subsection (2) took place in the Island or elsewhere, or
 - (b) whether it took place before or after the coming into force of this section.
- (5) A domestic abuse protection order may not be made against a person who is under the age of 14.

19 Matters to be considered before making an order

HC Bill 2017-19/422/30

- (1) Before making a domestic abuse protection order against P, the court must, among other things, consider the following, —
- (a) the welfare of any vulnerable adult and that of any person under the age of 18 whose interests the court considers relevant to the making of the order (whether or not that person is a person to whom P is personally connected);
 - (b) any opinion of the person for whose protection the order would be made, —
 - (i) which relates to the making of the order, and
 - (ii) of which the court is made aware;
 - (c) in a case where the order includes provision relating to premises lived in by the person for whose protection the order would be made, any opinion of a relevant occupant of which the court is made aware.
- (2) In subsection (1)(c) “relevant occupant” means a person other than P or the person for whose protection the order is made, —
- (a) who lives in the premises; and
 - (b) who is personally connected to —
 - (i) the person for whose protection the order would be made; or
 - (ii) if P also lives in the premises, P.
- (3) It is not necessary for the person for whose protection a domestic abuse protection order is made to consent to the making of the order.

20 Matters to be considered before making an order against T

Before making a domestic abuse protection order which contains provision obliging T to do, or refrain from doing, something the court must, among other things, consider the things specified in section 19(1) and, in addition, —

- (a) the effect on T of the proposed order so far as it applies to T;
- (b) whether the proposed provision (so far as it relates to T) is proportionate in all the circumstances; and
- (c) any representations made to the court by T.

21 Making of orders without notice

HC Bill 2017-19/422/31

- (1) A court may, in any case where it is just and convenient to do so, make a domestic abuse protection order against a person (“P”) even though P has

not been given such notice of the proceedings as would otherwise be required by rules of court.

- (2) Subsection (1) does not apply in relation to the making of an order under section 15 on an application made in accordance with subsection (3) of that section (see instead section 16(3) to (5)).
- (3) In deciding whether to exercise its powers under subsection (1), the court must have regard to all the circumstances, including, —
 - (a) any risk that, if the order is not made immediately, P will cause significant harm to the person for whose protection the order would be made,
 - (b) in a case where an application for the order has been made, whether it is likely that the person making the application will be deterred or prevented from pursuing the application if an order is not made immediately, and
 - (c) whether there is reason to believe that, —
 - (i) P is aware of the proceedings but is deliberately evading service, and
 - (ii) the delay involved in effecting substituted service will cause serious prejudice to the person for whose protection the order would be made.
- (4) If a court makes an order against a person by virtue of subsection (1), it must give the person an opportunity to make representations about the order, —
 - (a) as soon as just and convenient, and
 - (b) at a hearing of which notice has been given to all the parties in accordance with rules of court.

22 Provision that may be made by orders

HC Bill 2017-19/422/32

- (1) A court may by a domestic abuse protection order impose any requirements that the court considers necessary to protect the person for whose protection the order is made from domestic abuse or the risk of domestic abuse.

Here “requirement” includes any prohibition or restriction.

- (2) The court must, in particular, consider what requirements (if any) may be necessary to protect the person for whose protection the order is made from different kinds of abusive behaviour.
- (3) Subsections (4) to (6) contain examples of the type of provision that may be made under subsection (1), but they do not limit the type of provision that may be so made.
- (4) A domestic abuse protection order may provide that P, —

- (a) may not contact the person for whose protection it is made;
- (b) may not come within a specified distance of any premises in which that person lives.

Here “specified” means specified in the order.

- (5) If P lives in premises where the person for whose protection the order is made also lives, the order may contain provision, —
 - (a) prohibiting P from evicting or excluding that person from the premises;
 - (b) prohibiting P from entering the premises;
 - (c) requiring P to leave the premises;
 - (d) prohibiting P from taking any step or any specified step which would prevent the person for whose protection the notice is given from occupying the premises.
- (6) A domestic abuse protection order may require P to submit to electronic monitoring of P’s compliance with other requirements imposed by the order.

In this Part a requirement imposed by virtue of this subsection is referred to as an “**electronic monitoring requirement**”.

- (7) Sections 23 and 24 contain further provision about the requirements that may be imposed by a domestic abuse protection order.

23 Further provision about requirements that may be imposed by orders

HC Bill 2017-19/422/33

- (1) Requirements imposed on a person by a domestic abuse protection order must, so far as practicable, be such as to avoid, —
 - (a) conflict with the person’s religious beliefs;
 - (b) interference with any times at which the person normally works or attends an educational establishment;
 - (c) conflict with the requirements of any other court order or injunction to which the person may be subject.
- (2) A domestic abuse protection order that imposes a requirement to do something on P or T must specify the person who is to be responsible for supervising compliance with that requirement.
- (3) Before including such a requirement in a domestic abuse protection order, the court must receive evidence about its suitability and enforceability from the person to be specified under subsection (2).
- (4) Subsections (2) and (3) do not apply in relation to electronic monitoring requirements (see instead section 24(3) and (4)).
- (5) It is the duty of a person specified under subsection (2) —

- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
- (b) to promote compliance with the relevant requirements on the part of P or T (as the case requires);
- (c) if the person considers that, —
 - (i) P or T has complied with all the relevant requirements, or
 - (ii) P or T has failed to comply with a relevant requirement, to inform the designated police officer, and in a case within subparagraph (ii) to inform the police officer of any explanation offered by P or T for the failure.

In paragraph (c) the “designated police officer” means a police officer designated in the domestic abuse protection order.

- (6) If P or T is subject to a requirement imposed by a domestic abuse protection order, then P or T —
 - (a) must keep in touch with the person specified under subsection (2) in relation to that requirement, in accordance with any instructions given by that person from time to time,
 - (b) if P or T changes home address, must notify the person specified under subsection (2) of the new home address; and
 - (c) if P or T ceases to have any home address, must notify the person specified under subsection (2) of that fact.

These obligations have effect as requirements of the order.

24 Further provision about electronic monitoring requirements

HC Bill 2017-19/422/34 (omitting subsections (4) and (5))

- (1) Subsections (2) and (3) apply for the purpose of determining whether a court may impose an electronic monitoring requirement on a person (“P”) in a domestic abuse protection order.
- (2) The requirement may not be imposed in P’s absence.
- (3) If there is a person (other than P) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (4) A domestic abuse protection order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (5) The person specified under subsection (4) (“the responsible person”) must be of a description specified in regulations made by the Department.

Tynwald procedure — approval required.

- (6) Where a domestic abuse protection order imposes an electronic monitoring requirement on a person, the person must (among other things)—
- (a) submit, as required from time to time by the responsible person, to, —
 - (i) being fitted with, or the installation of, any necessary apparatus, and
 - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
 - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and
 - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purposes of the monitoring.

These obligations have effect as requirements of the order.

25 Duration and geographical application of orders

HC Bill 2017-19/422/35

- (1) A domestic abuse protection order takes effect on the day on which it is made.

This is subject to subsection (2).

- (2) If, on the day on which a domestic abuse protection order (“the new order”) is made against a person, the person is subject to another domestic abuse protection order (“the previous order”), the new order may be made so as to take effect on the day on which the previous order ceases to have effect.

- (3) A domestic abuse protection order has effect, —
- (a) for a specified period,
 - (b) until the occurrence of a specified event, or
 - (c) until further order.

Here “specified” means specified in the order.

- (4) A domestic abuse protection order may also specify periods for which particular requirements imposed by the order have effect.
- (5) But a domestic abuse protection order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (6) Subsection (5) is subject to any variation of the order under section 32.
- (7) A requirement imposed by a domestic abuse protection order has effect throughout the Island unless expressly limited to a particular locality.

26 Breach of order

HC Bill 2017-19/422/36

- (1) A person who is subject to a domestic abuse protection order commits an offence if, without reasonable excuse, the person fails to comply with any requirement imposed by the order.

Maximum penalty —

- (a) (on information) 7 years' custody;
- (b) (summary) 12 months' custody or a level 5 fine or both.
- (2) In a case where the order was made against the person without that person being given notice of the proceedings, the person commits an offence under this section only in respect of conduct engaged in at a time when the person was aware of the existence of the order.

See also section 33(7), which makes similar provision where an order has been varied.

- (3) Where a person is convicted of an offence under this section in respect of any conduct, that conduct is not punishable as a contempt of court.
- (4) A person may not be convicted of an offence under this section in respect of any conduct which has been punished as a contempt of court.
- (5) If a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.
- (6) In proceedings for an offence under this section, a copy of the original domestic abuse protection order, certified by the proper officer of the court that made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those matters is admissible in those proceedings.

27 Arrest for breach of order

HC Bill 2017-19/37 and drafting

- (1) This section applies where a relevant court has made a domestic abuse protection order.

- (2) In this section, —

“relevant court” means, —

- (a) the High Court,
- (b) a Court of General Gaol Delivery, or
- (c) a court of summary jurisdiction; and

“the relevant judge” means, —

- (a) where the order was made by the High Court, a judge of that court;

- (b) where the order was made by a Court of General Gaol Delivery, a Deemster; or
 - (c) where the order was made by a court of summary jurisdiction, the High Bailiff or a justice of the peace.
- (3) A person mentioned in subsection (4) may apply to the relevant judge for the issue of a warrant for the arrest of P or T if the person considers that P or T (as the case requires) has failed to comply with the order or is otherwise in contempt of court in relation to the order.
- (4) The persons referred to in subsection (3) are, —
 - (a) the person for whose protection the order was made;
 - (b) where the order was made under section 15, the person who applied for the order (if different);
 - (c) any other person with the leave of the relevant judge.
- (5) The relevant judge may issue a warrant on an application under subsection (3) only if, —
 - (a) the application is substantiated on oath, and
 - (b) the relevant judge has reasonable grounds for believing that P or T (as the case requires) has failed to comply with the order or is otherwise in contempt of court in relation to the order.
- (6) A relevant court may remand P or T if, —
 - (a) that person is brought before a relevant court as a result of a warrant issued under this section, and
 - (b) the court does not immediately dispose of the matter.
- (7) The Schedule contains further provision about remand under this section.
In the Schedule “the relevant person” means P or T as the case requires.
- (8) For the power of a constable to arrest P or T without warrant for breach of a domestic abuse protection order, see section 27 of the *Police Powers and Procedures Act 1998*.

28 Notification requirements

HC Bill 2017-19/422/38

- (1) Subsections (2) to (6) apply where a person is subject to a domestic abuse protection order.
- (2) The person must, within the period of 3 days beginning with the day on which the order is made, notify the police of the information in subsection (3).
- (3) The information referred to in subsection (2) is, —
 - (a) the person’s name and, if the person uses one or more other names, each of those names;

- (b) the person's home address.
- (4) If the person uses a name which has not been notified under this section, the person must, within the period of three days beginning with the day on which the person first uses that name, notify a police officer of that name.
- (5) If the person changes home address, the person must, before the end of the period of three days beginning with the day on which that happens, notify a police officer of the new home address.
- (6) If the person ceases to have any home address, the person must, before the end of the period of three days beginning with the day on which that happens, notify a police officer of that fact.
- (7) The Department may by regulations specify further notification requirements which a court may impose when making or varying a domestic abuse protection order.
Tynwald procedure — approval required.
- (8) In this subsection a “notification requirement” is a requirement for the person against whom the order is made to provide specified information to the police.
- (9) The requirements imposed by subsections (2), (4), (5) and (6) do not apply where the person is subject to notification requirements under section 11 of the *Sex Offenders Act 2006*.
- (10) If on any day the person ceases to be subject to any notification requirements mentioned in subsection (8), the requirements imposed by subsections (2), (4), (5) and (6) apply to the person on and after that day, but as if the reference in subsection (2) to the day on which the order was made were a reference to that day.
- (11) For provision about how to give a notification under subsection (2), (4), (5) or (6), see section 30.

29 Notification requirements: travel outside the Island

P2003/42/86

- (1) The Department may by regulations make provision requiring a person subject to a domestic abuse protection order who leaves the Island, or any description of such person, —
 - (a) to give in accordance with the regulations, before he or she leaves, a notification under subsection (2);
 - (b) if he or she subsequently return to the Island, to give in accordance with the regulations a notification under subsection (3).
- (2) A notification under this subsection must disclose —
 - (a) the date on which the person will leave the Island;

- (b) the country (or, if there is more than one, the first country) to which he or she will travel and his or her point of arrival (determined in accordance with the regulations) in that country;
 - (c) any other information prescribed by the regulations which the offender holds about his or her departure from or return to the Island or his or her movements while outside the Island.
- (3) A notification under this subsection must disclose any information prescribed by the regulations about the person's return to the Island.
- (4) In this section "country" includes "territory".

Tynwald procedure for regulations under this section — affirmative.

30 Further provision about notification under section 28 or 29

HC Bill 2017-19/422/38

- (1) A person gives a notification under section 28(2), (4), (5) or (6) or 29(2) or (3) by giving a notification to such person and in such manner as the Department may prescribe by regulations.

The regulations must prescribe, in addition to other means, a means of electronic communication (within the meaning of the *Electronic Transactions Act 2000*).

Tynwald procedure — approval required.

- (2) A notification given in accordance with this section must be acknowledged, —
 - (a) in writing, and
 - (b) in such form as the Department may direct.
- (3) When a person ("P") gives a notification under section 28 or 29, P must, if requested to do so by the person to whom notification is given, attend at a police station specified by that person and allow that person to do any of the following things, —
 - (a) take P's fingerprints;
 - (b) photograph, or otherwise produce an image of, P or any part of P.
- (4) The power in subsection (3) is exercisable for the purpose of verifying P's identity.

31 Offences relating to notification

HC Bill 2017-19/422/40

- (1) A person ("P") commits an offence if P, —
 - (a) fails, without reasonable excuse, to comply with a requirement imposed by or under section 28 or 29, or
 - (b) notifies a police officer, in purported compliance with such a requirement, of any information which P knows to be false.

- (2) A person who fails, without reasonable excuse, to comply with section 30(3) commits an offence.

Maximum penalty for an offence under this section, —

- (a) (summary) 12 months' custody or a level 5 fine or both;
- (b) (on information) 5 years' custody.

32 Variation and discharge of orders

HC Bill 2017-19/422/41

- (1) A court may vary or discharge a domestic abuse protection order made by that or any other court.

This is subject to section 33.

- (2) A court may vary or discharge an order under this section, —
- (a) on the application of a person mentioned in subsection (3), or
 - (b) in any case in which it could make a domestic abuse protection order under section 17.
- (3) The persons referred to in subsection (2)(a) are, —
- (a) the person for whose protection the order was made;
 - (b) the person against whom the order was made ("P");
 - (c) where the order was made under section 16 (domestic abuse protection order on notice) the person who applied for the order;
 - (d) a police officer of, or above, the rank of inspector;
 - (e) a person acting on behalf of a child for whom either the person for whose protection the order was made or P has parental responsibility, but only with the leave of the court.
- (4) Before deciding whether to vary or discharge an order under this section, the court must hear from, —
- (a) a police officer of, or above, the rank of inspector who wishes to be heard,
 - (b) if P is present or represented by an advocate and P or P's advocate (as the case requires) wishes to be heard, P or P's advocate, and
 - (c) in a case where the person for whose protection the order was made is seeking to discharge the order, or to remove or make less onerous any requirement imposed by the order, the person for whose protection it was made.
- (5) Section 19 (matters to be considered before making an order) applies in relation to the variation or discharge of a domestic abuse protection order as it applies in relation to the making of such an order, but as if references to the person for whose protection the order would be made were references to the person for whose protection the order was made.

- (6) Section 21 (making of orders without notice) applies in relation to the variation of a domestic abuse protection order as it applies in relation to the making of such an order, but as if, —
- (a) references to the person for whose protection the order would be made were references to the person for whose protection the order was made,
 - (b) subsection (2) were omitted, and
 - (c) the reference in subsection (4) to making representations about the order were a reference to making representations about the variation.
- (7) The court may make any order varying or discharging a domestic abuse protection order that it considers appropriate.
- This is subject to subsections (8) to (12).
- (8) The court may include an additional requirement in the order, or extend the period for which the order, or a requirement imposed by the order, has effect, only if it is satisfied that it is necessary to do so in order to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.
- (9) The court may not extend the period for which an electronic monitoring requirement has effect by more than 12 months at a time.
- (10) The court may remove any requirement imposed by the order, or make such a requirement less onerous, only if satisfied that the requirement as imposed is no longer necessary to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.
- (11) If it appears to the court that any conditions necessary for a requirement to be imposed are no longer met, the court, —
- (a) may not extend the requirement, and
 - (b) must remove the requirement.
- (12) The court may discharge the order only if satisfied that the order is no longer necessary to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.

33 Variation and discharge: supplementary

HC Bill 2017-19/422/42

- (1) Any application to vary or discharge a domestic abuse protection order under section 32 must be made to the court that made the order.

This is subject to subsection (2).

- (2) Where, —

- (a) the order was made under section 17 on an appeal in relation to a person's conviction or sentence for an offence, or
 - (b) the order was made by a court under that section against a person committed or remitted to that court for sentencing for an offence,

any application to vary or discharge the order must be made to the court by or before which the person was convicted (but see subsection (3)).
- (3) Where the person mentioned in subsection (2)(b)—
 - (a) was convicted by a juvenile court;
 - (b) is aged 18 or over at the time of the application,

the reference in subsection (2) to the court by or before which the person was convicted is to be read as a reference to a court of summary jurisdiction.
- (4) Except as provided for by subsection (3), a domestic abuse protection order made by the Court of General Gaol Delivery may only be varied or discharged by that court.
- (5) A domestic abuse protection order made by the High Court may only be varied or discharged by that court.
- (6) An order that has been varied under section 32 remains an order of the court that first made it for the purposes of any further application under that section.
- (7) In a case where, —
 - (a) an order made against a person is varied under section 32 so as to include an additional requirement, or to extend the period for which the order, or a requirement imposed by the order, has effect, and
 - (b) the person was not given notice of the proceedings,

the person commits an offence under section 26 only in respect of conduct engaged in at a time when the person was aware of the making of the variation.

34 Appeals

HC Bill 2017-19/422/43

- (1) A person against whom a domestic abuse protection order is made may appeal against the making of the order.
- (2) An appeal may be brought against the decision of a court not to make a domestic abuse protection order under section 15—
 - (a) by the person who applied for the order, or
 - (b) if different, by the person for whose protection the order was sought.

- (3) An appeal may be brought against any decision of a court under section 32 in relation to a domestic abuse protection order.
- (4) An appeal under subsection (3) may be brought by any of the following, —
 - (a) the person for whose protection the order was made;
 - (b) the person against whom the order was made (“P”);
 - (c) where the order was made under section 15, the person who applied for the order;
 - (d) a police officer of, or above, the rank of inspector.
- (5) An appeal under any of subsections (1) to (3) lies to the Staff of Government Division.
- (6) Before determining an appeal made in accordance with this section, the relevant court must hear from any police officer of, or above, the rank of inspector who wishes to be heard.
- (7) An appeal brought in accordance with this section is to be determined applying the same principles as would be applied in determining a petition of doloance.
- (8) In determining an appeal under this section, the Staff of Government Division must either, —
 - (a) dismiss the appeal, or
 - (b) quash the whole or part of the decision to which the appeal relates.
- (9) If the Staff of Government Division quashes the whole or part of a decision made by a court, it may refer the matter back to that court with a direction to reconsider and make a new decision in accordance with its ruling.
- (10) A person may not exercise any other right of appeal which would, apart from this section, be exercisable in relation to a decision referred to in subsection (1), (2) or (3).

PART 3 — ABUSIVE BEHAVIOUR: OFFENCES

DIVISION 1 — OFFENCES

35 The domestic abuse offence

HC Bill 2017-19/422/57

- (1) A person who is aged at least 16, or such other lower age as the Department may by order specify, (referred to in this Part as “A”) commits an offence if, —
 - (a) A engages in behaviour that is abusive of another person (referred to in this Part as “B”);
 - (b) A and B are personally connected to each other at the time; and

(c) the conditions in subsection (3) are met.

The offence is referred to in this Part as “**the domestic abuse offence**”.

- (2) An order under subsection (1) may not specify an age lower than that for the time being specified in section 70(1) of the *Children and Young Persons Act 2001* (which specifies the age below which a child is conclusively presumed incapable of committing an offence).
- (3) The conditions referred to in subsection (1)(c) are, —
- (a) that a reasonable person would consider the behaviour to be likely to cause B to suffer physical or psychological harm; and
 - (b) that A, —
 - (i) intends the behaviour to cause B to suffer physical or psychological harm, or
 - (ii) is reckless as to whether the behaviour causes B to suffer physical or psychological harm.
- (4) For the purposes of this Part “**psychological harm**” includes fear, alarm and distress.
- (5) The domestic abuse offence may be committed whether or not A’s behaviour actually causes B to suffer any physical or psychological harm.
- But this does not prevent evidence being adduced in proceedings for the domestic abuse offence about any harm actually suffered by B as a result of the behaviour.
- (6) In proceedings in respect of a charge of the domestic abuse offence, it is a defence for a person to show that the behaviour was reasonable in the particular circumstances.
- (7) That is shown if, —
- (a) evidence adduced is enough to raise an issue as to whether the behaviour was as described in subsection (6), and
 - (b) the prosecution does not prove beyond reasonable doubt that the behaviour was not as described in that subsection.
- (8) See also, —
- (a) section 37 (behaviour occurring outside the Island); and
 - (b) section 38 (alternative offence).

Maximum penalty for an offence under this section, —

- (a) (on information) 14 years’ custody;
- (b) (summary) 12 months’ custody, a level 5 fine or both.

Tynwald procedure — approval required.

36 The controlling or coercive behaviour offence

[P2015/9/76 and drafting]

- (1) A person aged 16 or over (“A”) commits an offence (“**the controlling or coercive behaviour offence**”) if, —
 - (a) A repeatedly or continuously engages in behaviour towards another person (“B”) that is controlling or coercive,
 - (b) at the time of the behaviour, A and B are personally connected,
 - (c) the behaviour has a serious effect on B, and
 - (d) A knows or ought to know that the behaviour will have a serious effect on B.
- (2) A’s behaviour has a “serious effect” on B if, —
 - (a) it causes B to fear, on at least two occasions, that violence will be used against B,
 - (b) it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities, or
 - (c) it causes B to fear that A intends to damage the relationship of trust and confidence between B and —
 - (i) a child or remoter lineal descendant of B,
 - (ii) a child or remoter lineal descendant of A, or
 - (iii) a child who is living or has lived with A and B as a child of their family (treating A and B as if they had been married for the purpose of determining that relationship).
- (3) For the purposes of subsection (1)(d) A “ought to know” that which a reasonable person in possession of the same information would know.
- (4) In proceedings for the controlling and coercive behaviour offence it is a defence for A to show that, —
 - (a) in engaging in the behaviour in question, A believed that he or she was acting in B’s best interests, and
 - (b) the behaviour was in all the circumstances reasonable.
- (5) A is to be taken to have shown the facts mentioned in subsection (4) if, —
 - (a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (6) The defence in subsection (4) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.

Maximum penalty, —

(on information) – 14 years or a fine;

(summary) - 12 months’ custody or a level 5 fine or both.

DIVISION 2 — PROCEDURAL PROVISIONS

37 Behaviour occurring outside the Island

HC Bill 2017-19/422/61 and drafting

- (1) A commits the domestic abuse offence or the controlling or coercive behaviour offence (as the case requires) if, —
 - (a) A's behaviour consists of or includes behaviour occurring in a country outside the Island,
 - (b) the behaviour would constitute the domestic abuse offence or the controlling or coercive behaviour offence if it occurred in the Island, and
 - (c) A is —
 - (i) a United Kingdom national who is present in the Island; or
 - (ii) habitually resident in the Island
- (2) If the behaviour occurs wholly outside the Island and paragraphs (b) and (c) of subsection (1) are satisfied, —
 - (a) proceedings for the relevant offence may be taken in the Island, and
 - (b) the offence may for incidental purposes be treated as having been committed in the Island.
- (3) In this section, —

“country” includes territory;

“UK national” means someone who, in the terms of the British Nationality Act 1981 (of Parliament), is, —

 - (a) a British citizen,
 - (b) a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, or
 - (c) a British subject or a British protected person.

38 Conviction of alternative offence

HC Bill 2017-19/422/64 and drafting.

In proceedings for the domestic abuse offence or the controlling or coercive behaviour offence, A may be convicted of an alternative offence if the facts proved against A, —

- (a) do not amount to the offence with which A is charged, but
- (b) do amount to an offence under, —
 - (i) section 56(1)(b) of the *Petty Sessions and Summary Jurisdiction Act 1927* (using provoking language or behaviour tending to a breach of the peace);
 - (ii) section 2 of the *Protection from Harassment Act 2000* (offence of harassment); or

- (iii) section 4 of that Act (putting people in fear of violence).

DIVISION 3 — AGGRAVATION

39 Aggravation of offence where victim is under 18

HC Bill 2017-19/422/66

- (1) A charge of the domestic abuse offence or the controlling or coercive behaviour offence against A may include an allegation that the offence is aggravated by reason of B having been under the age of 18 at the time of any of the behaviour constituting the offence.
- (2) Subsection (3) applies where, —
- (a) A is charged as mentioned in subsection (1), and
- (b) the charge is proved.
- (3) The court must, —
- (a) state on conviction that the offence is aggravated by reason of B having been under the age of 18 as mentioned in subsection (1),
- (b) record the conviction in a way that shows that the offence is so aggravated,
- (c) in determining the appropriate sentence, treat the fact that the offence is so aggravated as a factor that increases the seriousness of the offence, and
- (d) in imposing sentence, explain how the fact that the offence is so aggravated affects the sentence imposed.
- (4) If the charge, —
- (a) is not proved as respects the allegation of aggravation, but
- (b) is otherwise proved,
- A may be convicted of the charge omitting the allegation of aggravation.

40 Aggravation of offence where child is otherwise involved

HC Bill 2017-19/422/67

- (1) A charge of the domestic abuse offence or the controlling or coercive behaviour offence against A may include an allegation that the offence is aggravated by reason of involving a relevant child.
- (2) For the purposes of this section, “relevant child” means a person under the age of 18 who is neither A nor B.
- (3) For the purposes of this section, the domestic abuse offence is aggravated by reason of involving a relevant child if, —
- (a) at any time in the commission of the offence, —
- (i) A directed behaviour at the child, or

- (ii) A made use of the child in directing behaviour at B, or
 - (b) the child saw or heard, or was present during, an incident of behaviour which A directed at B as part of the course of behaviour.
- (4) Behaviour is “directed at” a person if it is directed at a person in any way including (for example)—
 - (a) by way of conduct relating to the person’s ability to acquire, use or maintain money or other property or to obtain goods or services,
 - (b) by way of other conduct towards property, or
 - (c) by making use of a third party,as well as in a personal or direct manner.
- (5) Subsection (6) applies where, —
 - (a) A is charged as mentioned in subsection (1), and
 - (b) the charge is proved.
- (6) The court must, —
 - (a) state on conviction that the offence is aggravated by reason of involving a relevant child,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) in determining the appropriate sentence, treat the fact that the offence is so aggravated as a factor that increases the seriousness of the offence, and
 - (d) in imposing sentence, explain how the fact that the offence is so aggravated affects the sentence imposed.
- (7) If the charge, —
 - (a) is not proved as respects the allegation of aggravation, but
 - (b) is otherwise proved,A may be convicted of the charge without the allegation of aggravation.

41 Power to amend Division

- (1) The Department may by order amend this Division to add, vary or remove provisions about the factors which constitute aggravation of the domestic abuse offence or the controlling or coercive behaviour offence.
Tynwald procedure — approval required.
- (2) An order under subsection (1) may include such consequential, incidental, supplemental and transitional provision, including amendments to other provisions of this Act as the Department considers appropriate.

PART 4 – PROHIBITION OF CROSS-EXAMINATION IN PERSON

DIVISION 1: PROCEEDINGS IN THE COURTS OF SUMMARY JURISDICTION

42 Summary Jurisdiction Act 1989 amended

- (1) The *Summary Jurisdiction Act 1989* is amended as follows.
- (2) For the italic cross-heading preceding section 48 substitute, —

DIVISION 1: DOMESTIC PROCEEDINGS

- (3) After section 53 insert, —

DIVISION 2: THE PROHIBITION ON CROSS-EXAMINATION

53A Prohibition of cross-examination in person: introductory

In this Division “**witness**”, in relation to any proceedings, includes a party to the proceedings.

53B Prohibition of cross-examination in person: victims of offences

- (1) In family proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence.
- (2) In family proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of, or given a caution for, or is charged with, that offence.
- (3) Subsections (1) and (2) do not apply to a conviction or caution that is spent for the purposes of the *Rehabilitation of Offenders Act 2001* unless evidence in relation to the conviction or caution is admissible in, or may be required in, the proceedings by virtue of section 5(2), (3) or (4) of that Act.
- (4) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the conviction, caution or charge when the cross-examination took place.
- (5) In this section, —
 - (a) a caution given in the Island by a police officer or any other person authorised to do so in respect of an offence which, at

the time the caution is given, the person to whom it is given has admitted;

- (b) a conditional caution given under section 22 of the Criminal Justice Act 2003 (of Parliament);
- (c) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998 (of Parliament);
- (d) any other caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time the caution is given, that person has admitted;
- (e) anything corresponding to a caution falling within paragraph (a), (b), (c) or (d) (however described) which is given to a person in respect of an offence under the law of Scotland;

“conviction” means, —

- (a) a conviction before a court in the Island;
- (b) a conviction before a court in England and Wales, Scotland or Northern Ireland;
- (c) a conviction in service disciplinary proceedings (in the Island or elsewhere);
- (d) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that the person concerned has committed an offence or done the act or made the omission charged;

and “convicted” is to be read accordingly;

“service disciplinary proceedings” means, —

- (a) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (of Parliament) (except proceedings before a civilian court within the meaning of that Act);
- (b) any proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (each an Act of Parliament) (whether before a court-martial or before any other court or person authorised under any of those Acts to award a punishment in respect of an offence);
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976 (of Parliament);

“specified offence” means an offence under the *Domestic Abuse Act 2020* or any other offence specified, or of a description specified, in regulations made by the Department.

Tynwald procedure — approval required.

- (6) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this section to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally, —
 - (a) section 6 of the *Criminal Justice Act 1963*;
 - (b) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 (of Parliament);
 - (c) section 187 of the Armed Forces Act 2006 (of Parliament);
 or any corresponding earlier Manx or Parliamentary enactment.
- (7) For the purposes of this section “offence” includes an offence under a law that is no longer in force.

53C Prohibition of cross-examination in person: persons protected by injunctions etc

- (1) In family proceedings, no party to the proceedings against whom an on-notice protective injunction is in force may cross-examine in person a witness who is protected by the injunction.
- (2) In family proceedings, no party to the proceedings who is protected by an on-notice protective injunction may cross-examine in person a witness against whom the injunction is in force.
- (3) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the protective injunction when the cross-examination took place.
- (4) In this section “protective injunction” means an order or injunction specified, or of a description specified, in rules of court.
- (5) For the purposes of this section, a protective injunction is an “on-notice” protective injunction if, —
 - (a) the court is satisfied that there has been a hearing at which the person against whom the protective injunction is in force asked, or could have asked, for the injunction to be set aside or varied, or
 - (b) the protective injunction was made at a hearing of which the court is satisfied that both the person who applied for it and the person against whom it is in force had notice.

53D Direction for prohibition of cross-examination in person: other

cases

- (1) In family proceedings, the court may give a direction prohibiting a party to the proceedings from cross-examining (or continuing to cross-examine) a witness in person if, —
 - (a) neither section 53B nor section 53C operates to prevent the party from cross-examining the witness, and
 - (b) it appears to the court that, —
 - (i) the quality condition or the significant distress condition is met, and
 - (ii) it would not be contrary to the interests of justice to give the direction.
- (2) The “quality condition” is met if the quality of evidence given by the witness on cross-examination, —
 - (a) is likely to be diminished if the cross-examination (or continued cross-examination) is conducted by the party in person, and
 - (b) would be likely to be improved if a direction were given under this section.
- (3) The “significant distress condition” is met if, —
 - (a) the cross-examination (or continued cross-examination) of the witness by the party in person would be likely to cause significant distress to the witness or the party, and
 - (b) that distress is likely to be more significant than would be the case if the witness were cross-examined other than by the party in person.
- (4) A direction under this section may be made by the court, —
 - (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.
- (5) In determining whether the quality condition or the significant distress condition is met in the case of a witness or party, the court must have regard, among other things, to, —
 - (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the party in person;
 - (b) any views expressed by the party as to whether or not the party is content to cross-examine the witness in person;
 - (c) the nature of the questions likely to be asked, having regard to the issues in the proceedings;
 - (d) any behaviour by the party in relation to the witness in respect of which the court is aware that a finding of fact has

- been made in the proceedings or any other family proceedings;
- (e) any behaviour by the witness in relation to the party in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings;
- (f) any behaviour by the party at any stage of the proceedings, both generally and in relation to the witness;
- (g) any behaviour by the witness at any stage of the proceedings, both generally and in relation to the party;
- (h) any relationship (of whatever nature) between the witness and the party.

- (6) Any reference in this section to the quality of a witness's evidence are to its quality in terms of completeness, coherence and accuracy.
- (7) For this purpose "coherence" refers to a witness's ability in giving evidence to give answers which, —
 - (a) address the questions put to the witness, and
 - (b) can be understood, both individually and collectively.

53E Directions under section 53D: supplementary

- (1) A direction under section 53D has binding effect from the time it is made until the witness in relation to whom it applies is discharged.
- (2) But the court may revoke a direction under section 53D before the witness is discharged, if it appears to the court to be in the interests of justice to do so, either, —
 - (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.
- (3) The court may revoke a direction under section 53D on an application made by a party to the proceedings only if there has been a material change of circumstances since, —
 - (a) the direction was given, or
 - (b) if a previous application has been made by a party to the proceedings, the application (or the last application) was determined.
- (4) The court must state its reasons for, —
 - (a) giving a direction under section 53D;
 - (b) refusing an application for a direction under section 53D;
 - (c) revoking a direction under section 53D;
 - (d) refusing an application for the revocation of a direction under section 53D.

53F Alternatives to cross-examination in person

- (1) This section applies where a party to family proceedings is prevented from cross-examining a witness in person by virtue of section 53B, 53C or 53D.
- (2) The court must consider whether (ignoring this section) there is a satisfactory alternative means, —
 - (a) for the witness to be cross-examined in the proceedings, or
 - (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings.
- (3) If the court decides that there is not, the court must, —
 - (a) invite the party to the proceedings to arrange for an advocate to act for the party for the purpose of cross-examining the witness, and
 - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether an advocate is to act for the party for that purpose.
- (4) Subsection (5) applies if, by the end of the period specified under subsection (3)(b), either, —
 - (a) the party has notified the court that no advocate is to act for the party for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no advocate is to act for the party for the purpose of cross-examining the witness.
- (5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by an advocate appointed by the court to represent the interests of the party.
- (6) If the court decides that it is, the court must appoint an advocate (chosen by the court) to cross-examine the witness in the interests of the party.
- (7) An advocate appointed by the court under subsection (6) is not responsible to the party.
- (8) For the purposes of this section a reference to cross-examination includes (in a case where a direction is given under section 53D after the party has begun cross-examining the witness) a reference to continuing to conduct cross-examination.

53G Costs of advocates appointed under section 53F

- (1) After consulting the Deemsters, the Treasury may by regulations make provision for the payment out of the General Revenue of the Island of sums in respect of, —

- (a) fees or costs properly incurred by an advocate appointed under section 53F, and
 - (b) expenses properly incurred in providing such a person with evidence or other material in connection with the appointment.
- (2) The regulations may provide for the amounts to be determined by the Treasury or such other person as the regulations may specify.
- (3) The regulations may provide for the amounts paid to be calculated in accordance with, —
 - (a) a rate or scale specified in the regulations, or
 - (b) other provision made by or under the regulations.

Tynwald procedure for regulations under this section — approval required. **22**.
- (4) For the italic cross-heading preceding section 54 substitute, —

23 DIVISION 3: ORDERS IN DOMESTIC PROCEEDINGS **22**.

DIVISION 2: PROCEEDINGS UNDER THE MATRIMONIAL PROCEEDINGS
ACT 2003

43 Matrimonial Proceedings Act 2003 amended

- (1) The *Matrimonial Proceedings Act 2003* is amended as follows.
- (2) For the italic cross-heading in Part 5 before the section specified in column 1 of the table below, substitute the Division heading specified in column 2, —

Section	New Division heading
91	Division 1: Jurisdiction
92	Division 2: Rights to occupy matrimonial or civil partnership home
95	Division 3: Occupation orders
104	Division 4: Non-molestation orders
105	Division 5: Further provision as to molestation orders
115	Division 7: Supplemental.

- (3) Before section 106 insert, —

23 DIVISION 6: MISCELLANEOUS **22**.

- (4) After section 114 (but before the Division heading preceding section 115) insert, —

DIVISION 6A: FAMILY PROCEEDINGS: PROHIBITION OF CROSS-EXAMINATION IN PERSON

114A Prohibition of cross-examination in person: introductory

In this Division —

“**the court**” means the High Court;

“**witness**”, in relation to any proceedings, includes a party to the proceedings.

Note: This Division applies only for the purposes of proceedings under this Act in the High Court. For corresponding provisions in the courts of summary jurisdiction see Division 2 of Part 5 of the Summary Jurisdiction Act 1989

114B Prohibition of cross-examination in person: victims of offences

- (1) In family proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence.
- (2) In family proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of or given a caution for, or is charged with, that offence.
- (3) Subsections (1) and (2) do not apply to a conviction or caution that is spent for the purposes of the *Rehabilitation of Offenders Act 2001*, unless evidence in relation to the conviction or caution is admissible in, or may be required in, the proceedings by virtue of section 5(2), (3) or (4) of that Act.
- (4) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the conviction, caution or charge when the cross-examination took place.
- (5) In this section, —
 - (a) a caution given in the Island by a constable or any other person authorised to do so in respect of an offence which, at the time the caution is given, the person to whom it is given, has admitted;
 - (b) a conditional caution given under section 22 of the Criminal Justice Act 2003 (of Parliament);
 - (c) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998 (of Parliament);

- (d) any other caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time the caution is given, that person has admitted;
- (e) anything corresponding to a caution falling within paragraph (a), (b), (c) or (d) (however described) which is given to a person in respect of an offence under the law of Scotland;

“conviction” means, —

- (a) a conviction before a court in the Island;
- (b) a conviction before a court in England and Wales, Scotland or Northern Ireland;
- (c) a conviction in service disciplinary proceedings (in the Island or elsewhere);
- (d) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that the person concerned has committed an offence or done the act or made the omission charged;

and “convicted” is to be read accordingly;

“service disciplinary proceedings” means, —

- (a) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (of Parliament) (except proceedings before a civilian court within the meaning of that Act);
- (b) any proceedings under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 (each an Act of Parliament) (whether before a court-martial or before any other court or person authorised under any of those Acts of Parliament to award a punishment in respect of an offence);
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976 (of Parliament);

“specified offence” means an offence under the *Domestic Abuse Act 2020* or any other offence specified, or of a description specified, in regulations made by the Department.

Tynwald procedure — approval required.

- (6) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this section to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally, —

- (a) section 6 of the *Criminal Justice Act 1963*;

- (b) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 (of Parliament);
 - (c) section 187 of the Armed Forces Act 2006 (of Parliament);
 - or any corresponding earlier Manx or Parliamentary enactment.
- (7) For the purposes of this section “offence” includes an offence under a law that is no longer in force.

114C Prohibition of cross-examination in person: persons protected by injunctions etc

- (1) In family proceedings, no party to the proceedings against whom an on-notice protective injunction is in force may cross-examine in person a witness who is protected by the injunction.
- (2) In family proceedings, no party to the proceedings who is protected by an on-notice protective injunction may cross-examine in person a witness against whom the injunction is in force.
- (3) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the protective injunction when the cross-examination took place.
- (4) In this section “protective injunction” means an order or injunction specified, or of a description specified, in rules of court.
- (5) For the purposes of this section, a protective injunction is an “on-notice” protective injunction if, —
 - (a) the court is satisfied that there has been a hearing at which the person against whom the protective injunction is in force asked, or could have asked, for the injunction to be set aside or varied, or
 - (b) the protective injunction was made at a hearing of which the court is satisfied that both the person who applied for it and the person against whom it is in force had notice.

114D Direction for prohibition of cross-examination in person: other cases

- (1) In family proceedings, the court may give a direction prohibiting a party to the proceedings from cross-examining (or continuing to cross-examine) a witness in person if, —
 - (a) neither section 114B nor section 114C operates to prevent the party from cross-examining the witness, and
 - (b) it appears to the court that, —
 - (i) the quality condition or the significant distress condition is met, and

- (ii) it would not be contrary to the interests of justice to give the direction.
- (2) The “quality condition” is met if the quality of evidence given by the witness on cross-examination, —
 - (a) is likely to be diminished if the cross-examination (or continued cross-examination) is conducted by the party in person, and
 - (b) would be likely to be improved if a direction were given under this section.
- (3) The “significant distress condition” is met if, —
 - (a) the cross-examination (or continued cross-examination) of the witness by the party in person would be likely to cause significant distress to the witness or the party, and
 - (b) that distress is likely to be more significant than would be the case if the witness were cross-examined other than by the party in person.
- (4) A direction under this section may be made by the court, —
 - (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.
- (5) In determining whether the quality condition or the significant distress condition is met in the case of a witness or party, the court must have regard, among other things, to, —
 - (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the party in person;
 - (b) any views expressed by the party as to whether or not the party is content to cross-examine the witness in person;
 - (c) the nature of the questions likely to be asked, having regard to the issues in the proceedings;
 - (d) any behaviour by the party in relation to the witness in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings;
 - (e) any behaviour by the witness in relation to the party in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings;
 - (f) any behaviour by the party at any stage of the proceedings, both generally and in relation to the witness;
 - (g) any behaviour by the witness at any stage of the proceedings, both generally and in relation to the party;

- (h) any relationship (of whatever nature) between the witness and the party.
- (6) Any reference in this section to the quality of a witness's evidence are to its quality in terms of completeness, coherence and accuracy.
- (7) For this purpose "coherence" refers to a witness's ability in giving evidence to give answers which, —
 - (a) address the questions put to the witness, and
 - (b) can be understood, both individually and collectively.

114E Directions under section 114D: supplementary

- (1) A direction under section 114D has binding effect from the time it is made until the witness in relation to whom it applies is discharged.
- (2) But the court may revoke a direction under section 114D before the witness is discharged, if it appears to the court to be in the interests of justice to do so, either, —
 - (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.
- (3) The court may revoke a direction under section 114D on an application made by a party to the proceedings only if there has been a material change of circumstances since, —
 - (a) the direction was given, or
 - (b) if a previous application has been made by a party to the proceedings, the application (or the last application) was determined.
- (4) The court must state its reasons for, —
 - (a) giving a direction under section 114D
 - (b) refusing an application for a direction under section 114D;
 - (c) revoking a direction under section 114D;
 - (d) refusing an application for the revocation of a direction under section 114D.

114F Alternatives to cross-examination in person

- (1) This section applies where a party to family proceedings is prevented from cross-examining a witness in person by virtue of section 114B, 114C or 114D.
- (2) The court must consider whether (ignoring this section) there is a satisfactory alternative means, —
 - (a) for the witness to be cross-examined in the proceedings, or

- (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings.
- (3) If the court decides that there is not, the court must, —
 - (a) invite the party to the proceedings to arrange for an advocate to act for the party for the purpose of cross-examining the witness, and
 - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether an advocate is to act for the party for that purpose.
- (4) Subsection (5) applies if, by the end of the period specified under subsection (3)(b), either, —
 - (a) the party has notified the court that no advocate is to act for the party for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no advocate is to act for the party for the purpose of cross-examining the witness.
- (5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by an advocate appointed by the court to represent the interests of the party.
- (6) If the court decides that it is, the court must appoint an advocate (chosen by the court) to cross-examine the witness in the interests of the party.
- (7) An advocate appointed by the court under subsection (6) is not responsible to the party.
- (8) For the purposes of this section a reference to cross-examination includes (in a case where a direction is given under section 114D after the party has begun cross-examining the witness) a reference to continuing to conduct cross-examination.

114G Costs of advocates appointed under section 114F

- (1) After consulting the Deemsters, The Treasury may by regulations make provision for the payment out of the General Revenue of sums in respect of, —
 - (a) fees or costs properly incurred by an advocate appointed under 114F, and
 - (b) expenses properly incurred in providing such a person with evidence or other material in connection with the appointment.
- (2) The regulations may provide for the amounts to be determined by the Treasury or such other person as the regulations may specify.

- (3) The regulations may provide for the amounts paid to be calculated in accordance with, —
 - (a) a rate or scale specified in the regulations, or
 - (b) other provision made by or under the regulations.Tynwald procedure — approval required. **22**.

PART 5 – CLOSING PROVISIONS

DIVISION 1 – REGULATIONS ETC.

44 Regulations about the disclosure of information by the Constabulary

- (1) The Department must make regulations about the disclosure of police information by the Constabulary for the purposes of preventing and mitigating the effects of domestic abuse.

Here “police information” means information held by the Constabulary.

Tynwald procedure — approval required.
- (2) Regulations under subsection (1) have effect to authorise the disclosure of information despite any obligation of confidentiality (whether arising by statute or otherwise).
- (3) Before making or amending regulations under this section the Department must consult, —
 - (a) the Chief Constable, and
 - (b) such other persons as the Department considers appropriate.
- (4) Subsection (3) does not apply in relation to any amendments to regulations under this section if the Department considers the proposed amendments are insubstantial.

45 Data from electronic monitoring: code of practice

- (1) The Department must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of individuals under electronic monitoring requirements imposed by domestic abuse protection orders.
- (2) A failure to act in accordance with a code issued under this section does not of itself make a person liable to any criminal or civil proceedings, but a court may have regard to the code in determining whether a person has acted lawfully.

46 Guidance

- (1) The Department may from time to time issue, revise and replace guidance relating to the exercise of functions under or by virtue of this Act.
- (2) Any person must have regard to any guidance issued under this section when exercising a function to which the guidance relates.
- (3) Before issuing, revising or replacing guidance under this section, the Department must consult, —
 - (a) the Deemsters;
 - (b) the Chief Constable; and
 - (c) such other persons as the Department considers appropriate.
- (4) The Department must arrange for any guidance issued or revised, and any guidance which replaces earlier guidance under this section to be laid before Tynwald and published in such manner as the Department considers appropriate.

DIVISION 2 — CONSEQUENTIAL AND MINOR AMENDMENTS**47 Children and Young Persons Act 1966 amended**

- (1) Section 1 of the *Children and Young Persons Act 1966* (cruelty to persons under 16) is amended as follows.
- (2) [Amended subsection (1)]

48 Consequential and minor amendments to the Land Registration Act 1982

- (1) The *Land Registration Act 1982* is amended as follows.
- (2) [Amended section 73]
- (3) [Substituted paragraph 18 in Schedule 11]

49 Repeal of amendment contained in Central Registry Act 2018

[Repealed paragraph 33(13) in the Schedule to the *Central Registry Act 2018*]

SCHEDULE

FURTHER PROVISION ABOUT REMAND UNDER SECTION 27

[Section 27(7)]

1 Introductory

This Schedule applies where a court has power to remand a person (referred to below in this Schedule as “**the relevant person**”) under section 27.

2 Remand in custody or on bail

- (1) The court may remand the relevant person in custody or on bail.
- (2) If remanded in custody, the relevant person is to be committed to custody to be brought before the court, —
 - (a) at the end of the period of remand, or
 - (b) at such earlier time as the court may require.
- (3) The court may remand the relevant person on bail, —
 - (a) by taking from the relevant person a recognisance (with or without sureties) conditioned as provided in paragraph 3, or
 - (b) by fixing the amount of the recognisances with a view to their being taken subsequently in accordance with paragraph 7 and, in the meantime, committing the relevant person to custody as mentioned in sub-paragraph (2).
- (4) Where the relevant person is brought before the court after remand, the court may further remand the relevant person.

3 Conditions of recognisance

- (1) Where the relevant person is remanded on bail, the court may direct that that person’s recognisance be conditioned for his or her appearance, —
 - (a) before the court at the end of the period of remand, or
 - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Where a recognizance is conditioned for the relevant person’s appearance as mentioned in sub-paragraph (1)(b), the fixing of a time for the relevant person next to appear is to be treated as a remand.
- (3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand the relevant person afresh.

4 Period of remand

The court may not remand the relevant person for a period exceeding 8 clear days unless, —

- (a) the court adjourns proceedings for the purpose mentioned in paragraph 5(1), or
- (b) the relevant person is remanded on bail and both the relevant person and the other party to the proceedings consent.

This is subject to paragraph 6.

5 Remand for medical report

- (1) If the court has reason to suspect that a medical report will be required, the power to remand a person under section 27 may be exercised for the purpose of enabling a medical examination to take place and a report to be made.
- (2) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.
- (3) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.
- (4) Sub-paragraph (5) applies if there is reason to suspect that a person who has been arrested under a warrant issued on an application made under section 27 is suffering from mental disorder within the meaning of the *Mental Health Act 1998*.
- (5) The court has the same power to make an order under Schedule 1A to the *Criminal Jurisdiction Act 1993* (remand to hospital for report on accused's mental condition or for treatment) as a Court of General Gaol Delivery has under that Schedule in the case of a person awaiting trial before a court for an offence punishable with custody.

6 Further remand

- (1) If the court is satisfied that a person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the end of the period of remand, the court may further remand the relevant person in the relevant person's absence.
- (2) The power under sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging the person's recognizance and those of any sureties for the person to a later time.
- (3) Where a person remanded on bail is bound to appear before the court at any time and the court has no power to remand the relevant person under sub-paragraph (1), the court may (in the relevant person's absence) enlarge the relevant person's recognizance and those of any sureties for the relevant person to a later time.

- (4) The enlargement of the relevant person's recognizance is to be treated as a further remand.
- (5) Paragraph 4 does not apply to the exercise of the powers conferred by this paragraph.

7 Postponement of taking of recognizance

Where under paragraph 2(3)(b) the court fixes the amount in which the principal and the sureties, if any, are to be bound, the recognizance may afterwards be taken by a person prescribed by rules of court, with the same consequences as if it had been entered into before the court.

8 Requirements imposed on remand on bail

The court may, when remanding a person on bail in accordance with this Schedule, require the person to comply, before release on bail or later, with such conditions as it considers necessary or expedient to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

ENDNOTES

Table of Endnote References

¹ ADO - SD2022/0341 - see table below

Provision	SD Number	Date in Operation
Sections 3 to 21	SD 2022/0341	04/01/2023
Section 22 except section 22(6)	SD 2022/0341	04/01/2023
Section 23	SD 2022/0341	04/01/2023
Section 25(1), (2), (3), (4) and (7)	SD 2022/0341	04/01/2023
Sections 26 to 31	SD 2022/0341	04/01/2023
Section 32 except section 32(9)	SD 2022/0341	04/01/2023
Sections 33 to 41	SD 2022/0341	04/01/2023
Sections 46 to 49	SD 2022/0341	04/01/2023
Schedule	SD 2022/0341	04/01/2023