

SAINT LUCIA

No. 11 of 2022

ARRANGEMENT OF SECTIONS

Section

PRELIMINARY

1. Short title
2. Interpretation

**PART I
ADMINISTRATION**

3. Powers of the Minister
4. Training of criminal justice and health authorities
5. Non-discrimination of victims

**PART II
DOMESTIC VIOLENCE**

Division 1

Prohibition of Domestic Violence

6. Prohibition of
domestic violence

Division 2

Report on acts of Domestic Violence

7. Report on acts of domestic violence to a police officer
8. Duties
of police officer in relation to acts of domestic violence

Division 3

Police Powers of Entry, Arrest and Detention

9. Power of entry without a warrant
10. Power of entry with a
warrant
11. Arrest by a police officer
12. Detention by a police officer

Division 4

Bail for an offence in relation to an act of Domestic Violence

13. Bail for an offence in relation to acts of domestic violence

112

No. 11] *Domestic Violence Act* [2022

PART III PROTECTION ORDERS

Division 1 Interim Protection Order

14. Application for an interim protection order by a victim 15.
Application for an interim protection order on behalf of a victim 16.
Making of a report to a police officer and application for an interim
protection order, by a witness
17. Time for submitting an application for an interim protection
order 18. Contents of and accompanying document with an
application for an interim protection order
19. Application for an interim protection order to be lodged with
the Director
20. Matters to be considered by the court before granting an
interim protection order
21. Grant of an interim protection order
22. Validity of an interim protection order
23. Service of an interim protection order and notice of proceedings
for a final protection order
24. Substituted service of an interim protection order and notice of
proceedings for a final protection order
25. Filing of affidavit by a respondent
26. Service of an affidavit filed by the respondent
27. Affidavit in reply to the affidavit filed by the respondent 28.
Service of affidavit in reply
29. Documents to be submitted to the court by the Director

Division 2 Final Protection Order

30. Proceedings in the absence of the respondent
31. Proceedings in the absence of the applicant
32. Bond of good behaviour *in lieu* of a final protection order or
penalty
33. Forfeiture of a bond of good behaviour
34. Grant or refusal to grant a final protection order
35. Notice and service of a final protection order

113

No. 11] *Domestic Violence Act* [2022

Division 3
General

- 36. Explanation to respondent by the court
- 37. Terms of a protection order
 - 38. Report of contravention of a protection order
- 39. Arrest by a police officer for contravention of a protection order
- 40. Penalties for contravention of a protection order
- 41. Application for variation or revocation of a protection order
- 42. Service of application for variation or revocation of a protection order
- 43. Grant of an application for variation or revocation of a protection order
- 44. Service of grant of an application for variation or revocation of a protection order
- 45. Protection order as evidence of a material fact in other proceedings
- 46. Protection of mortgage
- 47. Property rights
- 48. Appeals

PART IV
CONDUCT OF COURT PROCEEDINGS

- 49. Conduct of proceedings
 - 50. Standard of proof
- 51. Restriction on publication of report of proceedings

PART V
MISCELLANEOUS

- 52. Civil action
 - 53. Amendment of Schedule
- 54. Rules
- 55. Regulations
- 56. Repeal
- 57. Savings
 - 58. Transitional

SCHEDULE

I Assent

[L.S.]

ERROL CHARLES,
Acting Governor-General.

March 16, 2022.

SAINT LUCIA

No. 11 of 2022

AN ACT to provide for the protection of victims of domestic violence, the grant of a protection order and for related matters.

[21st March, 2022]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia and by the authority of the same as follows:

PRELIMINARY**Short title**

1. This Act may be cited as the Domestic Violence Act, 2022.

Interpretation

2. In this Act —

“applicant” —

- (a) means a person who is or has been in a domestic relationship with a respondent who makes an application or on whose behalf an application is made for a protection order under section 14, 15 or 16;

(b) includes a child or dependant of a person under paragraph (a);

“assigned officer” means —

(a) a probation officer under the Criminal Code, Cap. 3.01;

- (b) a person who holds a management position in an organization that has direct supervision of the provision of welfare or social services;

(c) a tutor appointed under the Civil Code, Cap. 4.01; (d) a curator appointed under the Civil Code, Cap. 4.01;

(e) any other person assigned by the court to supervise a child;

“attorney-at-law” means an individual who has been admitted to practice law under the Legal Profession Act, Cap. 2.04;

“child” —

(a) means a person under the age of eighteen years who —

- (i) resides with the applicant or respondent, whether or not a child of the applicant and the respondent,
- (ii) is a biological child, stepchild, foster child,

adopted child or a child treated as a child of the
applicant
or the respondent,

117

No. 11] *Domestic Violence Act* [2022

(iii) is related by consanguinity or affinity to the
applicant or the respondent,

(iv) is in the care and protection of the applicant or
the respondent,

(v) is or has been a member of a shared household;

(b) does not include a person who —

(i) is or has been married, or

(ii) is a cohabitant;

“coercion” —

(a) means an act of assault, threat, manipulation, humiliation,
intimidation;

(b) includes an act used to —

(i) harm, punish, frighten, exploit, control or deprive
a person,

(ii) regulate the behavior of a person,

(iii) create dependency on a person;

“Court” means the Family Court;

“cohabitant” means a person who resides or resided with
another person as a couple although not married to each
other;

“cyberstalking” in relation to a person, means the use of the
internet or other electronic means to —

(a) stalk;

(b) harass;

(c) transmit lewd, indecent, obscene or threatening words, images
or language;

(d) suggest the commission of a lewd act,

whether or not other conversation occurs;

“dependant” means a person over the age of eighteen years who, by reason of physical or mental disability, age or

118

No. 11] *Domestic Violence Act* [2022

infirmity, relies on the applicant or the respondent for his or her well-being;

“Director” means the person appointed by the Public Service Commission as the Director of the Family Court;

“Director of Human Services” has the meaning assigned under section 2 of the Child (Care, Protection and Adoption Act, Cap. 4.07;

“domestic relationship” means relations between an applicant and a respondent where the applicant and respondent —

- (a) are or were married under any law, custom or religion; (b) are or were cohabitants;
- (c) are the parents of a child or are persons who have or had parental responsibility for the child, whether or not at the same time;
- (d) are family members related by consanguinity, affinity or adoption;
- (e) are family members related by affinity where the cohabitants referred to under paragraph (b) were married;
- (f) are or were in an engagement, dating or visiting relationship;
- (g) share or shared the same household or residence; or
- (h) are in or have been in a relationship determined by the court to be a domestic relationship;

“domestic violence” in relation to a person —

- (a) means an action which harms, injures or endangers

health, safety, life, limb or well-being, whether mental or physical;

(b) includes —

(i) threats of physical abuse,

(ii) physical abuse,

119

No. 11] *Domestic Violence Act* [2022

(iii) threats of sexual abuse,

(iv) sexual abuse,

(v) emotional abuse,

(vi) verbal abuse

(vii) psychological abuse,

(viii) coercion,

(ix) molestation,

(x) arbitrary deprivation of liberty,

(xi) forced confinement,

(xii) economic abuse,

(xiii) intimidation,

(xiv) harassment,

(xv) stalking or cyberstalking,

(xvi) damage to, destruction or deprivation of property, or

(xvii) entry into the applicant's residence without consent, where the parties do not share the same residence;

“economic abuse” —

(a) means —

(i) the avoidance of financial obligations owed to a person, including a child or dependant of the person,

(ii) an act which coerces, exploits or limits the financial resources of a person, child or dependant of the

person;

(b) in relation to a person, child or dependant of the person, includes —

- (i) the deprivation or threatened deprivation of financial resources the person, child or dependant may be entitled to under the law or requires out of necessity,

120

No. 11] *Domestic Violence Act* [2022

(ii) the deprivation or threatened deprivation of household necessities, mortgage or rental payments,

(iii) the disposal or threatened disposal of his or her household effects or other property,

(iv) the alienation of —

(A) moveable or immovable property; (B) shares, securities, bonds or other similar assets;

(C) an interest in property by virtue of the domestic relationship;

(D) property required by the person, a child or dependant of the person,

(v) the prohibition or restriction of access to resources or facilities used by virtue of the domestic relationship;

“emotional, verbal and psychological abuse” includes

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

(b) repeated threats to cause emotional pain;

(c) repeated exhibition of possessiveness or jealousy, whether or not resulting in deprivation of privacy, liberty, integrity or security;

“*ex parte* application” means an application made to the Court without notice to the respondent;

“final protection order” means a protection order under section 34(b);

“firearm” has the meaning assigned under section 2 of the Firearms Act, Cap. 14.12;

“*gazetted officer*” has the meaning assigned under section 2 of the Police Act, Cap. 14.01;

“harassment” —

- (a) means conduct that induces the fear of harm;
- (b) includes conduct by a person that entails —

121

No. 11] *Domestic Violence Act* [2022

- (i) watching or loitering outside or near the building or place where a person, child or dependant of the person resides, works, carries on business, studies or happens to be,
- (ii) repeatedly making telephone calls or inducing another person to make telephone calls to a person, child or dependant of the person, whether or not conversation ensues,
- (iii) repeatedly sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic messages or other objects to a person, child or dependant of the person,
- (iv) repeatedly following, pursuing or accosting a person, child or dependant of the person with the intention of inducing fear or causing harm;

“interim protection order” means an interim protection order under section 21;

“intimidation” means uttering, conveying or causing a person to receive a threat which induces fear;

“member of the household” means a person who resides in the same dwelling house as the applicant or the respondent and is related to the applicant or respondent by consanguinity, affinity or adoption;

“Minister” means the Minister responsible for gender affairs;

“monetary relief” means compensation granted by the Court

to an applicant, where an act of domestic violence has caused the victim —

(a) to suffer a loss of earnings;

(b) to incur —

(i) medical expenses,

(ii) dental expenses,

(iii) relocation expenses,

(iv) accommodation expenses,

122

No. 11] *Domestic Violence Act* [2022

(v) expenses for household necessities,

(vi) other expenses;

“parent” includes a guardian or a person who has parental responsibility for a child;

“physical abuse” means an act of assault or an intentional or reckless act of a person, with or without that other person’s consent, that —

(a) applies force to or causes an impact on the body of another person;

(b) causes another person to fear that force or impact is imminent;

(c) is likely or intended to cause injury to another person; “police officer” has the meaning assigned under section 2 of the Police Act, Cap. 14.01;

“probation officer” means a person appointed as a probation officer by the Public Service Commission;

“protection order” means —

(a) an interim protection order under section 21;

(b) a final protection order under section 34(b);

“public officer” has the meaning assigned under section 124 of the Constitution of Saint Lucia, Cap. 1.01;

“repealed Act” means the Domestic Violence (Summary Proceedings) Act, Cap. 4.04;

“respondent” means a person —

- (a) who is or has been in a domestic relationship with the applicant; and
- (b) against whom the applicant has applied for or obtained a protection order;

“sexual abuse” means conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of a person;

123

No. 11] *Domestic Violence Act* [2022

“shared household” means a place where the applicant and the respondent reside or resided together in a domestic relationship;

“social worker” means a person appointed by the Public Service Commission within the Court;

“spouse” includes —

- (a) a former spouse;
- (b) a cohabitant
- (c) a former cohabitant;

“stalking” includes repeatedly following, pursuing or accosting a person;

“victim” means a person who alleges to have been subjected to an act of domestic violence;

“visiting relationship” means relations where the parties do not live together in the same household, and there are consensual romantic, intimate or sexual relations;

“weapon” includes a cutlass, knife, stick or anything that can be used as an object to threaten or cause physical harm to a person.

PART I

ADMINISTRATION

Powers of the Minister

3.—(1) The Minister shall —

- (a) develop and implement effective, comprehensive and coordinated cross-government policies prescribing measures to prevent acts of domestic violence;
- (b) ensure access to and provide services for the victim and other persons affected by acts of domestic violence;
- (c) provide guidance to a public officer on the practices to be used when responding and providing services to a victim;

124

No. 11] *Domestic Violence Act* [2022

- (d) ensure adequate budgetary resources are allocated annually for the effective implementation of this Act.

(2) The services under subsection (1)(b) and (c) include

- (a) crisis intervention services;
- (b) immediate transportation from the victim's residence to a medical centre or shelter or other place;
- (c) health care and social services adequately resourced, and staffed with persons trained to assist victims;
- (d) counselling for victims; and
- (e) psychoeducational group therapy for victims.

Training of criminal justice and health authorities

4.—(1) The Commissioner of Police after consultation with the Director, shall make available and deliver, on an annual basis, education and training programmes to police officers with respect to the procedures for responding to acts of domestic violence.

(2) The Chief Justice after consultation with the Director shall ensure that magistrates receive specialized training in hearing domestic violence matters.

(3) The Minister responsible for health, after consultation with the Director, shall make available and deliver education and training

programmes for healthcare and social service professionals with respect to the procedures for assisting victims on —

- (a) commencing the role as a healthcare and social service professional; and
- (b) an annual basis.

Non-discrimination of victims

5.—(1) A public officer or other person providing a service to a victim under this Act shall not treat a victim in a discriminatory manner.

(2) In this section, “discriminatory manner” includes discrimination on the grounds of sex, gender, race, colour, language, religion, political opinion, nationality, social origin, birth, sexual orientation,

125

No. 11] *Domestic Violence Act* [2022

gender identity, age, disability, marital status, migrant status, refugee status or other status.

PART II DOMESTIC VIOLENCE

Division 1

Prohibition of acts of Domestic Violence

Prohibition of acts of domestic violence

6.—(1) A person shall not commit an act of domestic violence.

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding five years, or to both.

(3) This section does not affect the Criminal Code, Cap. 3.01 with respect to an offence under the Criminal Code, Cap. 3.01.

Division 2

Report on acts of Domestic Violence

Report on acts of domestic violence to a police officer

7.—(1) A person may make a report to a police officer with respect to an act of domestic violence.

(2) Subject to the Child (Care, Protection and Adoption) Act, Cap. 4.07 where a person has knowledge or has reasonable grounds to suspect that a person —

- (a) is committing
- (b) has committed;
- (c) is likely to commit,

an act of domestic violence against a child, the person shall immediately make a report to a police officer.

(3) A report under subsection (1) or (2) must contain

- (a) the name and address of the victim;
- (b) the name and address of the accused person;

126

No. 11] *Domestic Violence Act* [2022

(c) the nature of the act of domestic violence;

(d) the date, time and location of the act of domestic violence, if not reported at the time committed;

(4) A person under subsection (2) includes —

- (a) a psychologist;
- (b) a health practitioner who is registered and holds a valid practising certificate or licence under the Health Practitioners Act, Cap. 11.06;
- (c) a nurse registered under the Registration of Nurses and Midwives Act, Cap.11.08;
- (d) an assigned officer;
- (e) a teacher,
- (f) a person who is in a position of trust or authority towards a child.

(5) A person referred to under subsection (4) who, without reasonable cause, fails or refuses to make a report to the police officer commits an offence and is liable on summary conviction to a

fine not exceeding one thousand dollars.

(6) A civil action shall not be brought against a person referred to under subsection (4) in respect of a report made in good faith under subsection (2).

Duties of police officer in relation to acts of domestic violence

8.—(1) Where a police officer receives a report under section 7, the police officer shall visit the scene where the act of domestic violence is being committed, has been committed or is likely to be committed, to conduct an investigation.

(2) Without prejudice to the Police Act, Cap. 14.01, a police officer shall respond to each report of an act of domestic violence, by conducting an investigation, whether or not the person making the report is a victim.

(3) A police officer responding to a report of an act of domestic violence shall, in conducting an investigation —

127

No. 11] *Domestic Violence Act* [2022

- (a) assist the victim or person who has suffered injury;
- (b) ensure the welfare and safety of a child or dependant who is on the premises;
- (c) prevent any further breach of the law;
- (d) interview —
 - (i) the parties and witnesses to the act of domestic violence, in separate location,
 - (ii) a child who is a party or witness to an act of domestic violence, in the presence of —
 - (A) the parent of the child;
 - (B) the Director of Human Services, where the parent is the accused person;
- (f) conduct a risk assessment of the victim and a child or dependant;
- (g) at the scene of the act of domestic violence, inform the victim of his or her rights as set out in the Schedule;

(h) make a complaint in accordance with the Criminal Procedure Rules, Cap. 3.01.

(4) Subject to the Criminal Procedure Rules, Cap. 3.01, a complaint under subsection (3)(h) —

(a) must include —

(i) in relation to the parties involved in an act of domestic violence —

(A) the name;

(B) the gender;

(C) the type of domestic relationship;

(D) the history of acts of domestic violence between the parties,

(ii) in relation to a child involved in an act of domestic violence —

(A) the name;

128

No. 11] *Domestic Violence Act* [2022

(B) the gender;

(C) the age,

(iii) the address or location where the act of domestic violence is being committed, has been committed or is likely to be committed,

(iv) the nature of the act of domestic violence and the weapon used, if any,

(v) the names of any person, other than the parties or witnesses, and

(vi) the date and time the complaint was received by the police officer;

(b) must be provided to —

(i) the victim, and

(ii) the Director.

Division 3
Police Powers of Entry, Arrest and Detention

Power of entry without a warrant

9.—(1) Without prejudice to the Criminal Code, Cap. 3.01 a police officer may enter premises, without a warrant, to arrest a person who is engaging or attempting to engage in an act of domestic violence where failure of the police officer to act immediately may result in injury or death of a person.

(2) Without prejudice to the Criminal Code, Cap. 3.01, where a police officer exercises a power of entry under subsection (1), the police officer shall immediately submit a written report to the Commissioner of Police through his or her supervisor.

(3) A report under subsection (2) must contain —

- (a) the reason for entering the premises without a warrant;
- (b) the act of domestic violence a person was engaged in or attempting to engage in;
- (c) the manner in which the investigation was conducted;

129

No. 11] *Domestic Violence Act* [2022

(d) the measures taken to ensure the protection and safety of the victim.

Power of entry with a warrant

10.—(1) Without prejudice to the Criminal Code, Cap. 3.01, where a person denies a police officer entry under section 9, the police officer shall make an application to a magistrate for a warrant to enter the premises on which he or she reasonably believes an act of domestic violence —

- (a) has been committed;
- (b) is being committed;
- (c) is likely to be committed.

(2) A magistrate may, on considering an application under subsection (1), issue a warrant in writing authorizing a police officer to enter the premises.

- (3) A warrant under subsection (2) must specify —
- (a) the premises on which the police officer is authorized to enter;
 - (b) the time period for execution of the warrant;
 - (c) any other condition as the magistrate determines.

Arrest by a police officer

11.—(1) Without prejudice to the Criminal Code, Cap. 3.01, a police officer may arrest, without a warrant, a person including a child, where the police officer reasonably suspects that the person or child —

- (a) has committed;
- (b) is committing; or
- (c) is likely to commit,

an act of domestic violence.

(2) Where a child is arrested under subsection (1), a police officer shall immediately notify —

- (a) the parent;

130

No. 11] *Domestic Violence Act* [2022

(b) the Director of Human Services; or

(c) a probation officer.

(3) Subsection (2)(b) and (c) applies where the Director of Human Services has assumed responsibility for the child, under the Child (Care, Protection and Adoption) Act, Cap. 4.07.

Detention by a police officer

12.—(1) A police officer shall, after arresting a child under section 11, detain the child in a separate place from a place where an adult is being held in police custody.

(2) Subsection (1) does not apply in relation to a child, where a police officer reasonably believes that the child is an adult.

(3) A police officer may, in accordance with the Criminal Code,

Cap. 3.01 detain a person arrested under section 11, while conducting an investigation under section 8(2).

(4) Notwithstanding this Act, section 44(5) of the Child Justice Act, Cap. 3.09 applies where a child is detained in a court by a police officer.

Division 4

Bail for an offence in relation to an act of Domestic Violence

Bail for an offence in relation to an act of domestic violence

13.—(1) Without prejudice to the Criminal Code, Cap. 3.01 where a criminal court has to determine whether to grant bail with respect to an act of domestic violence, the court must consider —

- (a) the need to protect the applicant from acts of domestic violence;
- (b) the welfare of a child or dependant if the respondent or applicant has custody of the child or dependant;
- (c) the welfare of a child or dependant of the household; and
- (d) any hardship that may be caused to the respondent or other members of his or her family where bail is not granted.

131

No. 11] Domestic Violence Act [2022

(2) In granting bail, the court may order that the recognizance be subject to the following conditions that the respondent —

- (a) does not harass, molest or cause another person to harass or molest the applicant;
- (b) is not present on the premises in which the applicant works or resides; and
- (c) is not to be in a locality where the applicant works or resides.

(3) A police officer may arrest a person, without a warrant, where a police officer believes on reasonable grounds that a person —

- (a) has been granted bail subject to a condition; and (b) has

failed to comply with a condition of the recognizance.

PART III PROTECTION ORDERS

Division I

Interim Protection Order

Application for an interim protection order by a victim

14. A victim may make an *ex parte* application to the court, in the prescribed form, for an interim protection order on the grounds that the respondent —

- (a) has committed;
- (b) has threatened to commit;
- (c) has attempted to commit; or
- (d) is likely to commit,

an act of domestic violence.

Application for an interim protection order on behalf of a victim

15.—(1) Subject to subsection (2), a person may make an *ex parte* application to the court, for an interim protection order, on behalf of a victim —

- (a) where the victim —

132

No. 11] *Domestic Violence Act* [2022

- (i) is a child or dependant of that person,
- (ii) resides or resided with that person,
- (iii) relies on that person for his or her welfare, (iv) is in the custody of the Director of Human Services;
- (b) where the person has a material interest in the well-being of the victim.

(2) A person with a material interest in the well-being of a victim, under subsection (1)(b) includes —

- (a) a *gazetted* officer;

- (b) the Director of Human Services; or
- (c) an assigned officer.

(3) A person making an application for an interim protection order, on behalf of a victim shall obtain the prior written consent of the victim, except where the victim is —

- (a) a child; or
- (b) by reason of mental disorder or of any other permanent or temporary incapacity, whether from intoxication or any other cause, unable to understand the nature and consequences of the act to which he or she consents.

Making of a report to a police officer and application for an interim protection order, by a witness

16. Where a witness to an act of domestic violence has reasonable grounds to believe that a crime is likely to be committed against him or her, by the person accused of the act of domestic violence, he or she may, with respect to the person accused —

- (a) make a report to a police officer;
- (b) make an application for an interim protection order.

Time for submitting an application for an interim protection order

17. An application for an interim protection order under section 14, 15 or 16, may be submitted outside the ordinary hours of the court

133

No. 11] *Domestic Violence Act* [2022

or on a day which is not an ordinary day for a sitting of the court, where the court is satisfied that a victim or a witness may suffer undue hardship if the application is not heard immediately.

Contents of and accompanying document with an application for an interim protection order

18.—(1) An application under section 14, 15 or 16

— (a) must specify —

- (i) the facts on which the application is based,

- (ii) the nature of the interim protection order applied for, and
 - (iii) the name of the police station closest to the victim's place of residence;
- (b) must be accompanied by —
- (i) an affidavit provided by the victim,
 - (ii) a police complaint,
 - (iii) any other documents in support of the application.

(2) Where an affidavit under subsection (1)(b)(i) contains information with regard to the possession of a firearm by the respondent and that injury or harm to another person may result, the court shall cause the Director to submit a copy of the affidavit to the Commissioner of Police.

Application for an interim protection order to be lodged with the Court

19.—(1) An application under section 14, 15 or 16 must be lodged with the Court together with —

- (a) an affidavit of the victim;
- (b) police complaint; and
- (c) any other document in support of the application.

134

No. 11] *Domestic Violence Act* [2022

Matters to be considered by the court before granting an interim protection order

20.—(1) In determining whether or not to grant an interim protection order, the Court —

- (a) may require further oral evidence or evidence by affidavit to be given;
- (b) shall consider —
 - (i) the nature or history of the acts of domestic violence,
 - (ii) whether a previous protection order has been granted,

- (iii) the need to protect the victim from further acts of domestic violence,
- (iv) the welfare of a child or dependant,
- (v) the accommodation needs of the victim and any other person,
- (vi) the hardship that may be caused to the victim,
- (vii) the income, assets and financial obligations of the respondent, the victim and any other person affected by the interim protection order;
- (viii) the need to preserve and protect the institution of marriage and domestic relationships,
- (ix) in the case where the respondent is a child, the Child Justice Act;
- (x) any other matter the court considers relevant.

(2) The evidence of an applicant is sufficient for the grant of an interim protection order and no other independent evidence is required by the Court.

Grant of an interim protection order

21.—(1) The Court may grant an interim protection order where the Court is satisfied that the respondent —

- (a) has committed;
- (b) has threatened to commit;

135

No. 11] *Domestic Violence Act* [2022

- (c) attempted to commit; or
- (d) is likely to commit,

an act of domestic violence.

(2) Notwithstanding subsection (1) and where the applicant and the respondent are parties to civil or criminal proceedings, the Court may grant an interim protection order, without an application being made to the Court.

(3) The Court shall not refuse to grant an interim protection

order where —

(a) a single act has been committed or a single threat has been made by the respondent; or

(b) the acts or threats when viewed in isolation, appear to be minor or trivial.

(4) At the proceedings for an interim protection order, the Court may —

(a) decide the matter based on affidavit evidence;

(b) request oral evidence.

(5) In granting an interim protection order under this section, the Court may issue a warrant for the arrest of the respondent to ensure the respondent is present at the court.

Validity of an interim protection order

22.—(1) The Court may grant an interim protection order for a period not exceeding twenty-eight days.

(2) An interim protection order is automatically extended for a further period of fifteen days where the Court is unable to hear and determine the proceedings for a final protection order before the expiration of the period specified under subsection (1).

Service of an interim protection order and notice of proceedings for a final protection order

23.—(1) Where the Court grants an interim protection order under section 21, the Director shall cause to be served —

(a) on the respondent or his or her agent; and

136

No. 11] *Domestic Violence Act* [2022

(b) in the case where the respondent is a child or dependant, on the parent or person responsible for the child or dependant —

(i) a copy of the interim protection order, and

(ii) a notice of proceedings for a final protection order in the prescribed form.

(2) A notice of proceedings for a final protection order under

subsection (1)(b)(ii), must specify the location of the Court, the date and time when a person is required to appear before the Court.

(3) An officer of the Court must provide proof of service of a notice of proceedings for a final protection order.

Substituted service of an interim protection order and notice of proceedings for a final protection order

24.—(1) Where an officer of the court is unable to effect personal service under section 23 the Court may, on the request of the Director, make an order for substituted service of the interim protection order and notice of proceedings for a final protection order.

(2) Substituted service is taken to have been effected at midnight on the date of publication of the advertisement.

(3) The cost of an advertisement under subsection (2) is borne by the applicant.

(4) In this section, “substituted service” means service —

- (a) by registered post to the last known address of the respondent;
- (b) by leaving the document at the last known address of the respondent or with his or her relative;
- (c) by leaving the document at the workplace of the respondent;
- (d) by advertisement in a newspaper of general circulation;
- (e) in any other manner as the Court directs.

Filing of affidavit by a respondent

25.—(1) A respondent may, on being served with an interim protection order and notice of proceedings for a final protection order, file an affidavit with the Court and Director, by the date specified in the notice of proceedings for a final protection order.

- (2) An affidavit under subsection (1) must specify — (a) evidence with respect to the act of domestic violence;
- (b) reasons for the Court to set aside an interim protection

order;

(c) reasons for not making a final protection order.

Service of an affidavit filed by the respondent

26. An officer of the Court shall immediately serve, on the applicant a copy of the affidavit of the respondent filed under section 25.

Affidavit in reply to the affidavit filed by the respondent

27. The applicant may, on receipt of an affidavit filed by the respondent under section 26, file an affidavit in reply to the affidavit filed by the respondent with the Court and Director, by the date specified by the court.

Service of affidavit in reply

28. The Court and Director shall cause a copy of the affidavit in reply to the affidavit filed by the respondent, to be served on the respondent.

Documents to be submitted to the court

29. On the date fixed by the Court for the proceedings, the following documents must be submitted to the Court —

- (a) the application for the interim protection order;
- (b) the interim protection order;
- (c) the affidavit filed by the respondent; and
- (d) the affidavit in reply to the affidavit filed by the respondent.

138

No. 11] *Domestic Violence Act* [2022

Division 2
Final Protection Order

Proceedings in the absence of the respondent

30. Where a notice of the proceedings for a final protection order is served on the respondent under section 23 or 24 and the respondent fails to appear in person on the date and time fixed for the matter with respect to a final protection order, the Court may,

in the absence of the respondent —

- (a) proceed to hear and determine the matter;
- (b) issue a warrant for the respondent to be arrested and brought before the court.
- (c) adjourn the matter;
- (d) grant a final protection order.

Proceedings in the absence of the applicant

31. Where the applicant or his or her attorney-at-law fails to appear in person on the date and time fixed by the Court for the matter with respect to a final protection order and the respondent appears in Court, the Court may, in the absence of the applicant —

- (a) adjourn the matter on terms the court considers just, having received a reasonable excuse for the non-appearance of the applicant;
- (b) dismiss the application.

Bond of good behaviour *in lieu* of a final protection order or penalty

32.—(1) Where, on hearing the evidence with respect to a final protection order, the Court may, with the consent of the applicant, not grant a final protection order or impose a penalty and require the respondent to enter into a bond of good behaviour, where —

- (a) the incident was isolated;
- (b) there are circumstances which make it desirable to preserve the family unit; and
- (c) the conduct complained of is not sufficiently grave to warrant a final protection order or penalty.

139

No. 11] *Domestic Violence Act* [2022

(2) A bond of good behaviour under subsection (1) is valid for a period not exceeding six months.

(3) Where a respondent enters a bond of good behaviour under subsection (1), the Court may specify additional conditions as follows —

- (a) that the parties —
 - (i) receive professional counselling,
 - (ii) attend psychoeducational group therapy,
 - (iii) report to an assigned officer at fixed intervals;
- (b) that the matter be reviewed by the Court within three months.

Forfeiture of a bond of good behaviour

33. A respondent forfeits a bond of good behaviour under section 32 where the Court determines that —

- (a) the respondent has engaged in a further act of domestic violence against the applicant;
- (b) based on a report from an assigned officer, the Director, a social worker or a police officer that an act of domestic violence is likely to be committed against the applicant; or
- (c) the applicant has become fearful of the respondent to the extent that the applicant is no longer willing to continue the domestic relationship.

Grant or refusal to grant a final protection order

34. On conclusion of proceedings for a final protection order the Court may —

- (a) confirm, amend or set aside the interim protection order;
- (b) grant a final protection order in the prescribed form; (c) refuse to grant a final protection order where —
 - (i) the matter is outside the scope of this Act,
 - (ii) the limitation period under the Criminal Code, Cap. 3.01 elapses;
 - (iii) the complainant is a respondent in another matter under this Act.

Notice and service of a final protection order

35. The Court shall immediately —

- (a) give notice of a final protection order granted under section 34(b) in writing, to the parties; and
- (b) serve —
 - (i) the respondent, the final protection order,
 - (ii) the applicant, a certified copy of the final protection.

Division 3

General

Explanation to respondent by the court

36. Where the Court grants a protection order and the respondent is before the Court, the Court shall explain to the respondent —

- (a) the contents of the protection order;
- (b) the means by which the protection order may be varied or revoked; and
- (c) the consequences for failing to comply with the protection order.

Terms of a protection order

37.—(1) In specifying the terms of a protection order, the Court may —

- (a) prohibit the respondent from —
 - (i) committing an act of domestic violence,
 - (ii) enlisting the assistance of a person to commit an act of domestic violence,
 - (iii) entering a shared household,

141

No. 11] *Domestic Violence Act* [2022

- (iv) entering a specified part of a shared household,
- (v) entering the residence of the victim or applicant,

- (vi) entering the place of employment of the victim or applicant,
- (vii) preventing the applicant, or any child or dependant who ordinarily resides or has resided in the shared household from entering or remaining in the shared household or a specified part of the shared household,
- (viii) taking possession of, using, damaging, converting or otherwise dealing with property of the victim or applicant,
- (ix) approaching the victim or applicant within a specified distance,
- (x) committing any other act as specified in the order;
- (b) direct that —
 - (i) the conditions of a protection order be applied for the benefit of a child or dependant,
 - (ii) the applicant and the respondent or any other person affected, receive professional counselling or psychoeducational group therapy from a person or agency which is approved in writing by the Director,
 - (iii) the respondent —
 - (A) return to the victim or applicant specified property that is in his or her possession or under his or her control;
 - (B) pay monetary relief to the victim or applicant;
 - (C) pay monetary relief to the victim or applicant for the benefit of a child or dependant, where there is no existing order in effect with respect to maintenance;
- (D) immediately vacate a shared household for a specified period;
- (E) make or continue to make payments with respect

- to rent or mortgage obligations for the property occupied by the applicant;
- (F) vacate a shared household; or
- (G) return to the applicant or victim any specified property that is in his or her possession or control,
- (iv) a police officer —
 - (A) removes the respondent, immediately or within a specified time, from the shared household;
 - (B) accompanies the applicant, either immediately or within a specified time, to a property, to supervise the removal of items belonging to the applicant;
- (c) refuse the respondent's contact with a child or dependant where evidence indicates that the contact is not in the best interest of the child or dependant;
- (d) order structured contact with a child or dependant;
- (e) order a police officer to seize a firearm in the possession of the respondent, where an affidavit made under section 18 contains information to the effect that —
 - (i) the respondent has threatened to injure the victim, or
 - (ii) possession of the firearm by the respondent may result in injury to another person;
- (f) any other terms the Court considers necessary.
- (2) Where the Court makes an order under subsection (1)(b)(ii) —
 - (a) the order must specify that the professional counsellor or therapist shall —
 - (i) give written notice to the Court of sessions missed by the applicant, the respondent or both parties, without reasonable excuse, and
 - (ii) submit a report to the Court with respect to the counselling or psychoeducational group therapy, at a date determined by the Court, which includes a prognosis for recovery.

(3) Where a person has refused or willfully neglected to comply with the direction under subsection (1)(b)(ii) the person is liable to a penalty of ten thousand dollars.

(4) The Court may grant a final protection order for a period not exceeding three years.

(5) Where a final protection order contains a prohibition or direction, the Court may specify a period for each condition or prohibition and each period must —

(a) not exceed three years; and

(b) run concurrently.

Report of contravention of a protection order

38. A person may make a report, to a police officer, where the respondent has contravened the protection order.

Arrest by a police officer for contravention of a protection order

39. A police officer may, on receipt of a report under section 38, arrest the respondent for contravention of a protection order.

Penalties for contravention of a protection order

40. A person against whom a protection order is made and contravenes the protection order, commits an offence and is liable on summary conviction —

(a) in the case of a first conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months, or to both;

(b) in the case of a second conviction, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding twelve months, or to both; and

(c) in the case of a subsequent conviction, to imprisonment for a term not exceeding five years.

Application for variation or revocation of a protection order

41.—(1) A party to the proceedings may make an application to the Court, in the prescribed form, to vary or revoke a protection

order during the period in which the protection order is valid.

144

No. 11] *Domestic Violence Act* [2022

(2) The Court shall have regard to all matters necessary in determining whether to vary or revoke a protection order including —

- (a) the current circumstances of applicant and respondent;
- (b) the necessity of a protection order.

Service of application for variation or revocation of a protection order

42. The Director shall cause a copy of an application under section 41, to be served on each party to the proceedings in respect of which the protection order was made.

Grant of an application for variation or revocation of a protection order

43. On receipt of an application to vary or revoke a protection order, the Court may grant the application.

Service of grant of an application for variation or revocation of a protection order

44. Where an application to vary or revoke a protection order is granted under section 43 —

- (a) the Director shall cause the varied protection order or notice of revocation to be drawn up in the prescribed form and filed with the Court; and
- (b) the Director shall serve a copy of the varied protection order or notice of revocation on —
 - (i) the respondent;
 - (ii) any other person to whom the varied protection order or notice of revocation applies; and
 - (iii) the police officer in charge of a police station located nearest to the residence of the respondent or the applicant.

Protection order as evidence of a material fact in other proceedings

45. The grant of a protection order may be introduced as evidence of a material fact in subsequent civil or criminal proceedings.

145

No. 11] *Domestic Violence Act* [2022

Protection of mortgage

46.—(1) A right conferred on a person in respect of any property by a protection order made under this Act is subject to the rights of a person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if —

- (a) the mortgage, security, charge or encumbrance was registered before a protection order was made; or
- (b) the rights of that other person entitled to that benefit arise under an instrument executed before the date of the making of a protection order.

(2) Money payable under any mortgage, security, charge or encumbrance does not become payable by reason of the making of a protection order under this Act.

Property rights

47. This Act shall not be construed as altering the rights of a spouse in respect of ownership of any real, personal, movable or immovable property.

Appeals

48.—(1) A person aggrieved by —

- (a) a protection order of the court; or
- (b) the refusal of the Court to make a protection order,

may, within twenty-eight days after the decision of the court, appeal to the High Court.

(2) Except where the Court which makes a protection order under this Act otherwise directs, the operation of the protection order is not suspended by virtue of an appeal made under this section and a protection order may be enforced in the same manner and in all respects as if an appeal under this section is not pending.

PART IV
CONDUCT OF PROCEEDINGS

Conduct of proceedings

49.—(1) The following persons may be present during the hearing of any proceedings under this Act —

- (a) an officer of the Court;
- (b) a party to the proceedings and his or her attorney-at-law; (c) a witness; or
- (d) any other person permitted by the magistrate to be present.

(2) A witness shall leave the Court room if asked to do so by the magistrate.

(3) This section does not limit the power of the court to hear proceedings in camera or to exclude a person from the court.

(4) Where an application is made on behalf of a child or a child is the respondent in an application, the parent of that child may be a party to the proceedings.

(5) This section does not prevent a child on whose behalf or against whom an application for a protection order is made from being heard in the proceedings and if the child expresses his or her views, the court shall take account of those views, having regard to —

- (a) the age and maturity of the child; and
- (b) the ability of the child to express his or her views.

Standard of proof

50. A question of fact arising in any proceedings under this Act, other than criminal proceedings shall be decided on a balance of probabilities.

Restriction on publication of report of proceedings

51.—(1) Subject to subsections (3) and (4), a person shall not publish a report of proceedings under this Act, other than criminal

proceedings, except with the leave of the Court.

147

No. 11] *Domestic Violence Act* [2022

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand or to imprisonment for a term not exceeding twelve months.

(3) This section does not limit —

(a) any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or

(b) the power of the Court to punish for contempt of court.

(4) This section does not apply to the publication of a report that is —

(a) of a *bona fide* professional or technical nature; or

(b) intended for circulation among members of the legal profession, the medical profession, public officers, police officers, psychologists, marriage counsellors or social workers.

PART V
MISCELLANEOUS

Civil action

52.—(1) This Act does not bar a civil action of a person in respect of an injury sustained by him or her or his or her property.

(2) The Court may, at any stage of the proceedings, inform the injured party as to his or her right to civil remedy by civil action.

Amendment of Schedule

53. The Minister may, by Order published in the *Gazette*, amend the Schedule.

Rules

54. The Chief Justice may make Rules of Court —

(a) to regulate the practice and procedure of the Court with

respect to proceedings under this Act; and

- (b) to prescribe the forms referred to under sections 14, 15, 16, 21, 34 and 42.

148

No. 11] *Domestic Violence Act* [2022

Regulations

55.—(1) The Minister may make Regulations to give effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make Regulations —

- (a) to prescribe the services provided for victims and persons affected by acts of domestic violence;
- (b) for the practice and procedure to be used, by a public officer, when responding and providing services to a victim.

Repeal

56. The Domestic Violence (Summary Proceedings) Act, Cap. 4.04 is repealed.

Savings

57. A statutory instrument made under the repealed Act and in force immediately prior to the coming into operation of this Act, so far as it is not inconsistent with this Act, continues in force as if made under this Act.

Transitional

58. An application made, proceedings instituted or order made under the repealed Act continues under this Act.

149

No. 11] *Domestic Violence Act* [2022

SCHEDULE

(Section 8)

INFORMATION TO VICTIM AND APPLICANT REGARDING HIS OR HER RIGHTS

1. You have the right to request the assistance of a police

officer in order to protect yourself and your child/children and the police officer is obligated to provide you with information on how to obtain a protection order.

2. You may request police assistance in locating and taking you and your child/children to a place of safety, including a shelter, the home of a family member or friend or any other place of safety.
3. You may request that your address not be disclosed to your abuser.
4. If you or your child/children is/are in need of medical treatment, you have the right to request the assistance of a police officer in obtaining such medical treatment.
5. You or a person on you or your child's/children's behalf may obtain an interim protection order from the Court at any time of the day or night and the interim protection order will be served on your abuser free of charge. The interim protection order is of a temporary nature, and if you wish it to be confirmed, you will be required to appear in Court at a later date.
6. The abuser can be ordered to pay emergency monetary relief and any or all contact with you or your child/children may be prohibited.
7. You may also request the Court to convict your abuser or prohibit the abuser from preventing you to enter the shared household.
8. If you and your child/children require/requires any counselling or support, you should contact the Director, Department of Social Services who can offer services to you and your child/children.

9. You have the right to lodge a criminal complaint against the abuser if a criminal offence has been committed against yourself and your child/children. You may do this now or at any time in the future.

10. Should you obtain a protection order or lodge a criminal complaint in which false facts are knowingly alleged, you may be convicted of an offence.

If you do not understand any of the above information, you may request more detail from myself or another member of the Royal Saint Lucia Police Force that you may be more comfortable with.

Passed in the House of Assembly this 8th day of March, 2022.

CLAUDIUS J. FRANCIS,
Speaker of the House of Assembly.

Passed in the Senate this 10th day of March, 2022.

STANLEY FELIX,
President of the Senate.

SAINT LUCIA
PRINTED BY THE NATIONAL PRINTING CORPORATION
CASTRIES

2022 [Price : \$20.00]