



Number 1 of 1996

DOMESTIC VIOLENCE ACT 1996

REVISED

Updated to 30 June 2016

This Revised Act is an administrative consolidation of the *Domestic Violence Act 1996*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (4/2016), enacted 11 February 2016, and all statutory instruments up to and including *European Union (Cereal Seed) (Amendment) Regulations 2016* (S.I. No. 375 of 2016), made 30 June 2016, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.



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DOMESTIC VIOLENCE ACT 1996

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Domestic Violence Acts 1996 to 2011: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 1(8)). The Acts in this group are:

- *Domestic Violence Act 1996* (1/1996)
- *Domestic Violence (Amendment) Act 2002* (30/2002)
- *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 60

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1999, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Child and Family Agency Act 2013* (40/2013)
- *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011)

- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Interpretation Act 2005* (23/2005)
- *Health Act 2004* (42/2004)
- *Civil Liability and Courts Act 2004* (31/2004)
- *Domestic Violence (Amendment) Act 2002* (30/2002)
- *Family Law (Miscellaneous Provision) Act 1997* (18/1997)
- *Family Law (Divorce) Act 1996* (33/1996)

All Acts up to and including *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (4/2016), enacted 11 February 2016, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Equality and Law Reform (Transfer of Departmental Administration and Ministerial Functions) Order 1997* (S.I. No. 297 of 1997)

All statutory instruments up to and including *European Union (Cereal Seed) (Amendment) Regulations 2016* (S.I. No. 375 of 2016), made 30 June 2016, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

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20. Amendment of Judicial Separation and Family Law Reform Act, 1989.
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22. Saving provisions.
23. Repeal and transitional provisions.
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[No. 1.]

Domestic Violence Act 1996

[1996.]

Section

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Number 1 of 1996

DOMESTIC VIOLENCE ACT 1996

REVISED

Updated to 30 June 2016

AN ACT TO MAKE PROVISION FOR THE PROTECTION OF A SPOUSE AND ANY CHILDREN OR OTHER DEPENDENT PERSONS, AND OF PERSONS IN OTHER DOMESTIC RELATIONSHIPS, WHOSE SAFETY OR WELFARE REQUIRES IT BECAUSE OF THE CONDUCT OF ANOTHER PERSON IN THE DOMESTIC RELATIONSHIP CONCERNED AND FOR THAT PURPOSE TO REPEAL AND RE-ENACT WITH AMENDMENTS THE PROVISIONS OF THE FAMILY LAW (PROTECTION OF SPOUSES AND CHILDREN) ACT, 1981, TO PROVIDE FOR ARREST WITHOUT WARRANT IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE HEARING AT THE SAME TIME OF CERTAIN APPLICATIONS TO A COURT UNDER MORE THAN ONE ENACTMENT FOR ORDERS RELATING TO DOMESTIC RELATIONSHIPS AND TO PROVIDE FOR OTHER CONNECTED MATTERS. [27th February, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

- C1** Functions under Act transferred to Child and Family Agency (1.01.2014) by *Child and Family Agency Act 2013 (40/2013)*, ss. 6, 82 and sch. 1, S.I. No. 502 of 2013 and S.I. No. 503 of 2013 (establishment day).

Establishment day

6. The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

...

Transfer of certain functions of Health Service Executive

82. (1) The administration and business in connection with the performance of any of the functions transferred by subsection (2) are transferred, on the establishment day, to the Agency.

(2) The functions vested in the Health Service Executive by or under the enactments specified in Schedule 1 shall, on the establishment day, stand transferred to the Agency.

...

SCHEDULE 1

Functions of Health Service Executive Transferred to Agency

Section 82.

...

Domestic Violence Act 1996

...

Editorial Notes:

- E1** Power to make order under collectively cited *Domestic Violence Acts 1996 and 2002* provided (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), ss. 115(a) and 119(1)(d), S.I. No. 648 of 2010.
- E2** Proceedings under Act included in definition of “civil partnership law proceedings” (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), S.I. No. 648 of 2010, in relation to Part 13 of 2010 Act.

Interpretation. **1.—(1)** In this Act, except where the context otherwise requires—

F1[‘Act of 2010’ means the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010*;

“applicant”, where appropriate, has the meaning assigned by either *section 2* or *3* or by both of those sections and where an interim barring order has been made the applicant for the barring order to which the interim barring order relates shall be deemed to be the applicant for the interim barring order and where a protection order has been made the applicant for the safety order or the barring order to which the protection order relates shall be deemed to be the applicant for that protection order;

“barring order” has the meaning assigned by *section 3*;

F1[‘civil partner’ has the meaning assigned to it by the Act of 2010 and includes a person who was a civil partner in a partnership that has been dissolved under that Act;]

“civil proceedings under this Act” means—

- (a) proceedings for the making, variation or discharge of a safety order or a barring order,
- (b) proceedings, consequent on the making of an application for a barring order, for the making, variation or discharge of an interim barring order which relates to the application,
- (c) proceedings, consequent on the making of an application for a safety order or barring order, for the making, variation or discharge of a protection order which relates to the application,
- (d) any proceedings by way of appeal or case stated which are related to proceedings to which *paragraph (a), (b) or (c)* applies;

“the court” means the Circuit Court or the District Court;

“dependent person”, in relation to the applicant or the respondent or both of them, as the case may be, means any child—

- (a) of the applicant and the respondent or adopted by both the applicant and the respondent under the Adoption Acts, 1952 to 1991, or under an adoption deemed to have been effected by a valid adoption order by virtue of section 2, 3, 4 or 5 of the Adoption Act, 1991, or in relation to whom both the applicant and the respondent are *in loco parentis*, or
- (b) of the applicant or adopted by the applicant under the Adoption Acts, 1952 to 1991, or under an adoption deemed to have been effected by a valid

adoption order by virtue of section 2, 3, 4 or 5 of the Adoption Act, 1991, or in relation to whom the applicant is *in loco parentis*, or

- (c) of the respondent or adopted by the respondent under the Adoption Acts, 1952 to 1991, or under an adoption deemed to have been effected by a valid adoption order by virtue of section 2, 3, 4 or 5 of the Adoption Act, 1991, or in relation to whom the respondent is *in loco parentis*, and the applicant, while not in the same relationship to that child for the purposes of this paragraph as the respondent is in, is in respect of that child a person to whom *paragraph (b)* of this definition relates,

who is not of full age or if the child has attained full age has a physical or mental disability to such extent that it is not reasonably possible for the child to live independently of the applicant;

“full age” has the same meaning as it has in the Age of Majority Act, 1985;

“functions” includes powers and duties;

F2[...]

“interim barring order” has the meaning assigned by *section 4*;

“protection order” has the meaning assigned by *section 5*;

“respondent”, where appropriate, has the meaning assigned by either *section 2* or *3* or by both of those sections and where an interim barring order has been made the respondent to the application for the barring order to which the interim barring order relates shall be deemed to be the respondent to the interim barring order and where a protection order has been made the respondent to the application for the safety order or the barring order to which the protection order relates shall be deemed to be the respondent to that protection order;

“safety order” has the meaning assigned by *section 2*;

“welfare” includes the physical and psychological welfare of the person in question.

- (2) (a) A reference in this Act to a section is a reference to a section of this Act unless it is indicated that a reference to some other Act is intended.

- (b) A reference in this Act to a subsection or to a paragraph is to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

- (3) Any reference in this Act to any other enactment shall, except where the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment including this Act.

Annotations

Amendments:

- F1** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 91, S.I. No. 648 of 2010.
- F2** Deleted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 1, S.I. No. 887 of 2004.

Editorial Notes:

- E3** The *Adoption Acts 1952 to 1998* were repealed (1.11.2010) by *Adoption Act 2010* (21/2010), s. 7 and sch. 1 part 1, S.I. No. 511 of 2010.

Safety order. 2.—(1) (a) In this section—

“the applicant” means a person, other than F3[the F4[Child and Family Agency]], who has applied or on whose behalf F3[the F4[Child and Family Agency]] has applied by virtue of section 6 for a safety order against another person (in this section referred to as “the respondent”) and the person so applying or on whose behalf F3[the F4[Child and Family Agency]] has so applied—

(i) is the spouse of the respondent, or

F5[(ia) is the civil partner of the respondent, or a person who was a party to a civil partnership with the respondent that has been dissolved under the Act of 2010, or]

F6[(ii) is not the spouse or civil partner within the meaning of the Act of 2010 of the respondent and is not related to the respondent within the prohibited degrees of relationship, but lived with the respondent in an intimate and committed relationship prior to the application for the safety order, or]

(iii) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person, or

(iv) being of full age resides with the respondent in a relationship the basis of which is not F6[primarily contractual, or]

F7[(v) is a parent of a child whose other parent is the respondent;]

“kindred”, in respect of two or more persons, means the relationship of each of those persons to the other person or to the rest of those persons by blood, adoption or marriage.

(b) In deciding whether or not a person is residing with another person in a relationship the basis of which is not primarily contractual, the court shall have regard to—

(i) the length of time those persons have been residing together,

(ii) the nature of any duties performed by either person for the other person or for any kindred person of that other person,

(iii) the absence of any profit or of any significant profit made by either person from any monetary or other consideration given by the other person in respect of residing at the place concerned,

(iv) such other matters as the court considers appropriate in the circumstances.

(2) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant or any dependent person so requires, it may, subject to *section 7*, by order (in this Act referred to as a “safety order”) direct that the respondent to the application—

(a) shall not use or threaten to use violence against, molest or put in fear the applicant or that dependent person, and

(b) if he or she is residing at a place other than the place where the applicant or that dependent person resides, shall not watch or beset the place where the applicant or that dependent person resides,

and the court may make such order subject to such exceptions and conditions as it may specify.

(3) Where a safety order has been made, any of the following may apply to have it varied, that is to say:

- (a) if the application for the order was made by F3[the F4[Child and Family Agency]] in respect of any dependent person by virtue of *section 6*—
- (i) F3[the F4[Child and Family Agency]],
 - (ii) the person referred to in *subsection (1) (c)* of that section, or
 - (iii) the respondent to that application;
- (b) if the application for the order was made by F3[the F4[Child and Family Agency]] in any other case by virtue of *section 6*—
- (i) F3[the F4[Child and Family Agency]],
 - (ii) the person who was the applicant for the order, or
 - (iii) the respondent to that application;
- (c) in any other case—
- (i) the person who was the applicant for the order, or
 - (ii) the person who was the respondent to the application for the order, and the court upon hearing any such application shall make such order as it considers appropriate in the circumstances.
- (4) For the purposes of *subsection (3)*, a safety order made by a court on appeal from another court shall be treated as if it had been made by that other court.
- (5) A safety order, if made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (6) (a)* and *section 13*, expire five years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.
- (6) (a) On or before the expiration of a safety order to which *subsection (5)* relates, a further safety order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of five years, or such shorter period as the court may provide for in the order, with effect from the expiration of the first-mentioned order.
- (b) On or before the expiration of a safety order to which *paragraph (a)* does not relate, a further safety order may be made with effect from the expiration of the first-mentioned safety order.
- (7) Notwithstanding *subsection (5)*, so much of a safety order as was made for the benefit of a dependent person shall expire in accordance with such order or upon such person ceasing to be a dependent person, whichever first occurs.
- (8) The court shall not make a safety order on an application for a barring order unless there is also an application for a safety order before the court concerning the same matter.

Annotations**Amendments:**

- F3** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 2, S.I. No. 887 of 2004.
- F4** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.

- F5** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 92, S.I. No. 648 of 2010.
- F6** Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 60(a)(i) and (ii), commenced on enactment.
- F7** Inserted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 60(a)(iii), commenced on enactment.

Modifications (not altering text):

- C2** Term “spouse” in section modified (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 51, commenced as per s. 1(2).

Amendment of Act of 1996.

51.—The references in sections 2 and 3 of the Act of 1996 to a spouse shall be construed as including references to a person who is a party to a marriage that has been dissolved under this Act or under the law of a country or jurisdiction other than the State, being a divorce that is entitled to be recognised as valid in the State.

Editorial Notes:

- E4** Power to make order under section before grant or refusal of decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 11(a), commenced as per s. 1(2).
- E5** Power to make order under section on or after grant of decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(d), commenced as per s. 1(2).

Barring order.

3.—(1) In this section “the applicant” means a person, other than F8[the F9[Child and Family Agency]], who has applied or on whose behalf F8[the F9[Child and Family Agency]] has applied by virtue of *section 6* for a barring order against another person (in this section referred to as “the respondent”) and the person so applying or on whose behalf F8[the F9[Child and Family Agency]] has so applied—

(a) is the spouse of the respondent, or

F10[(aa) is the civil partner of the respondent, or a person who was a party to a civil partnership with the respondent that has been dissolved under the Act of 2010, or]

F11[(b) is not the spouse or civil partner within the meaning of the Act of 2010 of the respondent and is not related to the respondent within the prohibited degrees of relationship, but lived with the respondent in an intimate and committed relationship for a period of at least six months in aggregate during the period of nine months immediately prior to the application for the barring order, or]

(c) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person.

(2) (a) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant or any dependent person so requires, it may, subject to *section 7* and having taken into account any order made or to be made to which paragraph (a) or (d) of subsection (2) of *section 9* relates, by order (in this Act referred to as a “barring order”)—

(i) direct the respondent, if residing at a place where the applicant or that dependent person resides, to leave such place, and

(ii) whether the respondent is or is not residing at a place where the applicant or that dependent person resides, prohibit that respondent from entering

such place until further order of the court or until such other time as the court shall specify.

(b) In deciding whether or not to grant a barring order the court shall have regard to the safety and welfare of any dependent person in respect of whom the respondent is a parent or *in loco parentis*, where such dependent person is residing at the place to which the order, if made, would relate.

(3) A barring order may, if the court thinks fit, prohibit the respondent from doing one or more of the following, that is to say:

(a) using or threatening to use violence against the applicant or any dependent person;

(b) molesting or putting in fear the applicant or any dependent person;

(c) attending at or in the vicinity of, or watching or besetting a place where, the applicant or any dependent person resides;

and shall be subject to such exceptions and conditions as the court may specify.

(4) (a) In respect of a person who is an applicant by virtue of paragraph (b) or (c) of subsection (1), the court shall not make a barring order in respect of the place where the applicant or dependent person resides where the respondent has a legal or beneficial interest in that place but—

(i) the applicant has no such interest, or

(ii) the applicant's interest is, in the opinion of the court, less than that of the respondent.

(b) Where in proceedings to which this section applies the applicant states the belief, in respect of the place to which *paragraph (a)* relates, that he or she has a legal or beneficial interest in that place which is not less than that of the respondent, then such belief shall be admissible in evidence.

(5) Without prejudice to *section 22*, nothing in this Act shall be construed as affecting the rights of any person, other than the applicant or the respondent, who has a legal or beneficial interest in a place in respect of which the court has made an order under this section.

(6) Where a barring order has been made, any of the following may apply to have it varied, that is to say:

(a) if the application for the order was made by F8[the F9[Child and Family Agency]] in respect of any dependent person by virtue of *section 6*—

(i) F8[the F9[Child and Family Agency]],

(ii) the person referred to in *subsection (1) (c)* of that section, or

(iii) the respondent to that application;

(b) if the application for the order was made by F8[the F9[Child and Family Agency]] in any other case by virtue of *section 6*—

(i) F8[the F9[Child and Family Agency]],

(ii) the person who was the applicant for the order, or

(iii) the respondent to that application;

(c) in any other case—

(i) the person who was the applicant for the order, or

(ii) the person who was the respondent to the application for the order, and the court upon hearing any such application shall make such order as it considers appropriate in the circumstances.

(7) For the purposes of *subsection (6)*, a barring order made by a court on appeal from another court shall be treated as if it had been made by that other court.

(8) A barring order, if made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (9) (a)* and *section 13*, expire three years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.

(9) (a) On or before the expiration of a barring order to which *subsection (8)* relates, a further barring order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of three years, or such shorter period as the court may provide for in the order, with effect from the expiration of the first-mentioned order.

(b) On or before the expiration of a barring order to which *paragraph (a)* does not relate, a further barring order may be made with effect from the expiration of the first-mentioned barring order.

(10) Notwithstanding *subsection (8)*, so much of a barring order as was made for the benefit of a dependent person shall expire in accordance with such order or upon such person ceasing to be a dependent person, whichever first occurs.

(11) The court shall not make a barring order on an application for a safety order unless there is also an application for a barring order before the court concerning the same matter.

(12) For the purposes of *subsections (2) and (3)*, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at such place.

F12[(13) Where, by reason only of either or both of the following, that is to say, a barring order and an interim barring order, an applicant who is not the spouse of the respondent has not lived with the respondent as husband or wife for a period of at least six months in aggregate during the period of nine months immediately prior to the application for a further barring order under *subsection (9)*, the applicant shall be deemed, for the purposes of this section, to have lived with the respondent as husband or wife for a period of at least six months in aggregate during the period of nine months immediately prior to the application.]

Annotations

Amendments:

- F8** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 3, S.I. No. 887 of 2004.
- F9** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.
- F10** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 93, S.I. No. 648 of 2010.
- F11** Substituted (2.08.2011) by *Civil Law (Miscellaneous Provisions) Act 2011* (23/2011), s. 60(b), commenced on enactment.
- F12** Inserted (5.05.1997) by *Family Law (Miscellaneous Provision) Act 1997* (18/1997), s. 4, commenced on enactment.

Modifications (not altering text):

- C3** Term “spouse” in section modified (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 51, commenced as per s. 1(2).

Amendment of Act of 1996.

51.—The references in sections 2 and 3 of the Act of 1996 to a spouse shall be construed as including references to a person who is a party to a marriage that has been dissolved under this Act or under the law of a country or jurisdiction other than the State, being a divorce that is entitled to be recognised as valid in the State.

Editorial Notes:

- E6** Power to make order under section before grant or refusal of decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 11(a), commenced as per s. 1(2).
- E7** Power to make order under section on or after decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(d), commenced as per s. 1(2).

Interim barring order.

4.—(1) If, on the making of an application for a barring order or between the making of such application and its determination, the court is of the opinion that there are reasonable grounds for believing that—

- (a) there is an immediate risk of significant harm to the applicant or any dependent person if the order is not made immediately, and
- (b) the granting of a protection order would not be sufficient to protect the applicant or any dependent person,

the court may, subject to *section 7* and having taken into account any order made or to be made to which *paragraph (a) or (d) of subsection (2) of section 9* relates, by order (in this Act referred to as an “interim barring order”)—

- (i) direct the respondent, if residing at a place where the applicant or that dependent person resides, to leave such place, and
- (ii) whether the respondent is or is not residing at a place where the applicant or that dependent person resides, prohibit that respondent from entering such place until further order of the court or until such other time as the court shall specify.

(2) *Subsections (3), (4), (5), (6), (7) and (12) of section 3* shall apply to an interim barring order as they apply to a barring order.

F13[(3) (a) An interim barring order may be made *ex parte* where, having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.

(b) The application for such an order shall be grounded on an affidavit or information sworn by the applicant.

(c) If an interim barring order is made *ex parte*—

(i) a note of evidence given by the applicant shall be prepared forthwith—

(I) by the judge,

(II) by the applicant or the applicant’s solicitor and approved by the judge,
or

(III) as otherwise directed by the judge,

and

(ii) a copy of the order, affidavit or information and note shall be served on the respondent as soon as practicable.

(d) The order shall have effect for a period, not exceeding 8 working days, to be specified in the order, unless, on application by the applicant for the barring order and on notice to the respondent, the interim barring order is confirmed within that period by order of the court.

(e) The order shall contain a statement of the effect of paragraph (d).

(f) In paragraph (d) 'working days' means days other than Saturdays, Sundays or public holidays (within the meaning of the Organisation of Working Time Act, 1997).]

(4) An interim barring order shall cease to have effect on the determination by the court of the application for a barring order.

(5) Notwithstanding subsection (4), so much of an interim barring order as was made for the benefit of a dependent person shall cease to have effect in accordance with that subsection or upon such person ceasing to be a dependent person, whichever first occurs.

Annotations

Amendments:

F13 Substituted (19.12.2002) by *Domestic Violence (Amendment) Act 2002* (30/2002), s. 1(a), commenced on enactment.

Editorial Notes:

E8 Power to make order under section before grant or refusal of decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 11(a), commenced as per s. 1(2).

E9 Power to make order under section on or after decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(d), commenced as per s. 1(2).

Protection order. **5.—(1)** If, on the making of an application for a safety order or a barring order or between the making of such an application and its determination, the court is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant for the order concerned or of any dependent person so requires, the court may by order (in this Act referred to as a "protection order") direct that the respondent to the application—

(a) shall not use or threaten to use violence against, molest or put in fear the applicant or that dependent person, and

(b) if he or she is residing at a place other than the place where the applicant or that dependent person resides, shall not watch or beset the place where the applicant or that dependent person resides,

and the court may make the protection order subject to such exceptions and conditions as it may specify.

(2) Where a protection order has been made, any of the following may apply to have it varied, that is to say:

(a) if the application for the order was made by F14[the F15[Child and Family Agency]] in respect of any dependent person by virtue of section 6—

(i) F14[the F15[Child and Family Agency]],

- (ii) the person referred to in *subsection (1) (c)* of that section, or
 - (iii) the respondent to that application;
- (b) if the application for the order was made by F14[the F15[Child and Family Agency]] in any other case by virtue of *section 6*—
- (i) F14[the F15[Child and Family Agency]],
 - (ii) the person who was the applicant for the order, or
 - (iii) the respondent to that application;
- (c) in any other case—
- (i) the person who was the applicant for the order, or
 - (ii) the person who was the respondent to the application for the order,

and the court upon hearing any such application shall make such order as it considers appropriate in the circumstances.

(3) For the purposes of *subsection (2)*, a protection order made by a court on appeal from another court shall be treated as if it had been made by that other court.

F16[(4) A protection order may be made *ex parte*.]

(5) A protection order shall cease to have effect on the determination by the court of the application for a safety order or a barring order.

(6) Notwithstanding *subsection (5)*, so much of a protection order as was made for the benefit of a dependent person shall cease to have effect in accordance with that subsection or upon such person ceasing to be a dependent person, whichever first occurs.

(7) For the purposes of this section, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at such place.

Annotations

Amendments:

- F14** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 4, S.I. No. 887 of 2004.
- F15** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.
- F16** Substituted (19.12.2002) by *Domestic Violence (Amendment) Act 2002* (30/2002), s. 1(b), commenced on enactment.

Editorial Notes:

- E10** Power to make order under section before grant or refusal of decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 11(a), commenced as per s. 1(2).
- E11** Power to make order under section on or after decree of divorce provided (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(d), commenced as per s. 1(2).

Power of health board to apply for certain orders.

6.—(1) Subject to *subsections (2), (3) and (4)*, this section shall apply where F17[the F18[Child and Family Agency]]—

- (a) becomes aware of an alleged incident or series of incidents which in its opinion puts into doubt the safety or welfare of a person (in this section referred to as the “aggrieved person”),
- (b) has reasonable cause to believe that the aggrieved person has been subjected to molestation, violence or threatened violence or otherwise put in fear of his or her safety or welfare,
- (c) is of the opinion that there are reasonable grounds for believing that, where appropriate in the circumstances, a person would be deterred or prevented as a consequence of molestation, violence or threatened violence by the respondent or fear of the respondent from pursuing an application for a safety order or a barring order on his or her own behalf or on behalf of a dependent person, and
- (d) considers, having ascertained as far as is reasonably practicable the wishes of the aggrieved person or, where the aggrieved person is a dependent person, of the person to whom *paragraph (c)* relates in respect of such dependent person, that it is appropriate in all the circumstances to apply for a safety order or a barring order or both in accordance with this Act on behalf of the aggrieved person.

(2) F17[the F18[Child and Family Agency]] may apply to the court on behalf of the aggrieved person for a safety order or a barring order for which the aggrieved person or, where the aggrieved person is a dependent person, the person to whom *subsection (1) (c)* relates in respect of such dependent person could have applied.

(3) Where an application is made by F17[the F18[Child and Family Agency]] by virtue of this section, the court shall, in determining whether, and if so to what extent, to exercise any of its functions under *section 2, 3, 4, 5 or 13*, have regard to any wishes expressed by—

- (a) the aggrieved person, or
- (b) where the aggrieved person is a dependent person, the person to whom *subsection (1) (c)* relates in respect of such dependent person and, where the court considers it appropriate, such dependent person.

(4) The provisions of *paragraphs (a) and (b) of subsection (1)* need not be complied with—

- (a) where the application relates to an aggrieved person who is a dependent person, or
- (b) in respect of so much of an application as relates to an aggrieved person where such person is a dependent person,

if the court is of the opinion that there is reasonable cause to believe that—

- (i) such dependent person has been or is being assaulted, ill-treated, sexually abused or seriously neglected, or
- (ii) such dependent person’s health, development or welfare has been, is being or is likely to be avoidably impaired or seriously neglected,

and that if the order is made the likelihood of harm to such dependent person will not arise or will be materially diminished.

(5) The court shall not make a barring order or an interim barring order where the aggrieved person is a dependent person unless F17[the F18[Child and Family Agency]] satisfies the court that the person to whom *subsection (1) (c)* relates in respect of

such dependent person is willing and able to provide reasonable care for such dependent person.

(6) F19[...]

Annotations

Amendments:

- F17** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 5(a)-(d), S.I. No. 887 of 2004.
- F18** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.
- F19** Deleted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 5(e), S.I. No. 887 of 2004.

Power to make orders, etc., under Child Care Act, 1991.

7.—(1) Where in proceedings for any order under this Act, other than proceedings to which *section 6* relates, it appears to the court that it may be appropriate for a care order or a supervision order to be made under the Child Care Act, 1991, with respect to a dependent person concerned in the proceedings, the court may, of its own motion or on the application of any person concerned, adjourn the proceedings and direct F20[the F21[Child and Family Agency]] to undertake an investigation or, as the case may be, further investigations of such dependent person's circumstances.

(2) Where proceedings are adjourned and the court gives a direction under *subsection(1)*, the court may give such directions under the Child Care Act, 1991, as it sees fit as to the care and custody of, and may make a supervision order under that Act in respect of, the dependent person concerned pending the outcome of the investigation by F20[the F21[Child and Family Agency]] concerned.

(3) Where the court gives a direction under *subsection (1)* in respect of a dependent person, F20[the F21[Child and Family Agency]] concerned shall undertake an investigation of such dependent person's circumstances and shall consider if it should—

- (a) apply for a care order or a supervision order under the Child Care Act, 1991,
- (b) provide services or assistance for such dependent person's family, or
- (c) take any other action in respect of such dependent person.

(4) Where F20[the F21[Child and Family Agency]] undertakes an investigation under this section and decides not to apply for a care order or supervision order under the Child Care Act, 1991, with respect to the dependent person concerned, it shall inform the court of—

- (a) its reasons for so deciding,
- (b) any service or assistance it has provided, or intends to provide, for such dependent person and his or her family, and
- (c) any other action which it has taken, or proposes to take, with respect to such dependent person.

Annotations**Amendments:**

- F20** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 6, S.I. No. 887 of 2004.
- F21** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.

Application of section 9(2) of Family Home Protection Act, 1976, to certain orders.

8.—(1) Subsection (2) of section 9 (which restricts the right of a spouse to dispose of or remove household chattels pending the determination of matrimonial proceedings) of the Family Home Protection Act, 1976, shall apply between the making of an application, against the spouse of the applicant, for a barring order or a safety order and its determination, and if an order is made, while such order is in force, as it applies between the institution and final determination of matrimonial proceedings to which that section relates.

(2) For the avoidance of doubt, it is hereby declared that the court which is empowered under subsection (2) (b) of section 9 of the Family Home Protection Act, 1976, to grant permission for any disposition or removal of household chattels (being household chattels within the meaning of that section) is, notwithstanding anything in section 10 of that Act, the court before which the proceedings (including any proceedings for a barring order or a safety order) have been instituted.

F22 [Application of orders restricting disposal or removal of household chattels.

8A.— (1) Section 34(2) (which restricts the right of a civil partner to dispose of or remove household chattels) of the Act of 2010 shall apply between the making of an application against the civil partner of the applicant for a barring order or a safety order and its determination, and if an order is made, while the order is in force, as it applies between the institution and final determination of dissolution proceedings to which that section relates.

(2) A court which is empowered under section 34(2)(b) of the Act of 2010 to grant permission for any disposition or removal of household chattels within the meaning of that section is, notwithstanding anything in section 140 of that Act, the court before which the proceedings (including any proceedings for a barring order or a safety order) have been instituted.]

Annotations**Amendments:**

- F22** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 94, S.I. No. 648 of 2010.

Hearing of applications under various Acts together.

9.—(1) Where an application is made to the court for an order under this Act, the court may, on application to it in the same proceedings and without the institution of proceedings under the Act concerned, if it appears to the court to be proper to do so, make one or more of the orders referred to in *subsection (2)*.

(2) The provisions to which *subsection (1)* relates are as follows, that is to say:

- (a) an order under section 11 (as amended by the Status of Children Act, 1987) of the Guardianship of Infants Act, 1964;

(b) an order under section 5, 5A, 6, 7 or 21A of the Family Law (Maintenance of Spouses and Children) Act, 1976 (as amended by the Status of Children Act, 1987);

(c) an order under section 5 or 9 of the Family Home Protection Act, 1976;

F23[(cc) an order under section 30, 34 or 45 of the Act of 2010;]

(d) an order under the Child Care Act, 1991.

Annotations

Amendments:

F23 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 95, S.I. No. 648 of 2010.

Taking effect of orders.

10.—(1) A safety order, barring order, interim barring order or protection order shall take effect on notification of its making being given to the respondent.

(2) Oral communication to the respondent by or on behalf of the applicant of the fact that a safety order, barring order, interim barring order or protection order has been made, together with production of a copy of the order, shall, without prejudice to the sufficiency of any other form of notification, be taken to be sufficient notification to the respondent of the making of the order.

(3) If the respondent is present at a sitting of the court at which the safety order, barring order, interim barring order or protection order is made, that respondent shall be taken for the purposes of *subsection (1)* to have been notified of its making.

(4) An order varying a safety order, barring order, interim barring order or protection order shall take effect on notification of its making being given to the person who was the other party in the proceedings for the making of the safety order or barring order and for this purpose *subsections (2) and (3)* shall apply with the necessary modifications.

Copies of orders to be given to certain persons.

11.—(1) The court, on making, varying or discharging a safety order or a protection order, shall cause a copy of the order in question to be given or sent as soon as practicable—

(a) to the applicant for the safety order or, in respect of a protection order, the applicant for the safety order or barring order concerned,

(b) to the respondent to the application for the safety order or, in respect of a protection order, the respondent to the application for the safety order or barring order concerned,

(c) where a health board by virtue of section 6 made the application for the safety order or, in respect of a protection order, for the safety order or barring order, to the health board,

(d) to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which the person for whose benefit the safety order or protection order was made resides, and

(e) where the order in question is a variation or discharge of a safety order or a protection order and the person for whose benefit the order was made had previously resided elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which that person had so resided but only if that member had previously been sent under this

subsection a copy of such safety order or protection order or any order relating thereto.

(2) The court on making, varying or discharging a barring order or an interim barring order shall cause a copy of the order in question to be given or sent as soon as practicable to—

- (a) the applicant for the barring order,
- (b) the respondent to the application for the barring order,
- (c) where F24[the F25[Child and Family Agency]] by virtue of section 6 made the application for the barring order concerned, F24[the F25[Child and Family Agency]],
- (d) the member of the Garda Síochána in charge of the Garda Síochána station for the area in which is situate the place in relation to which the application for the barring order was made, and
- (e) where the order in question is a variation or discharge of a barring order or an interim barring order and the place in respect of which the previous order was made is elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which is situated that place but only if that member had previously been sent under this subsection a copy of such barring order or interim barring order or any order relating thereto.

(3) The court—

- (a) on making a barring order, a safety order, an interim barring order or a protection order on the application of, or on behalf of, a person who is not of full age, or
- (b) on varying or discharging an order to which *paragraph (a)* relates,

shall cause a copy of the order in question to be given or sent as soon as practicable to F24[the F25[Child and Family Agency]] for the area in which the person resides.

(4) The validity of any order to which this section relates shall not be affected by non-compliance with the other provisions of this section.

Annotations

Amendments:

- F24** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 7, S.I. No. 887 of 2004.
- F25** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.

Effect of appeal from order.

12.—(1) An appeal from a safety order or a barring order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination.

(2) An appeal from a protection order or an interim barring order shall not stay the operation of the order.

Discharge of orders.

13.—(1) Where a safety order, barring order, interim barring order or protection order has been made, any of the following may apply to the court that made the order to have the order discharged, that is to say:

- (a) if the application for the order was made by F26[the F27[Child and Family Agency]] in respect of any dependent person by virtue of *section 6*—
 - (i) F26[the F27[Child and Family Agency]],
 - (ii) the person referred to in *subsection (1) (c)* of that section, or
 - (iii) the respondent to that application;
- (b) if the application for the order was made by F26[the F27[Child and Family Agency]] in any other case by virtue of *section 6*—
 - (i) F26[the F27[Child and Family Agency]],
 - (ii) the person who was the applicant for the order, or
 - (iii) the respondent to that application;
- (c) in any other case—
 - (i) the person who was the applicant for the order, or
 - (ii) the person who was the respondent to the application for the order,

and thereupon the court shall discharge the order if it is of the opinion that the safety and welfare of the applicant or such dependent person for whose protection the order was made does not require that the order should continue in force.

(2) On determination of any matrimonial cause or matter F28[or any annulment or dissolution proceedings under the Act of 2010,] between the applicant and the respondent or of any proceedings between them under the Guardianship of Infants Act, 1964, the court determining any such cause, matter or proceedings may, if it thinks fit, discharge any safety order, barring order, interim barring order or protection order.

(3) For the purposes of this section, an order made by a court on appeal from another court shall be treated as if it had been made by that other court.

Annotations

Amendments:

- F26** Substituted (1.01.2005) by *Health Act 2004* (42/2004), s. 75 and sch. 6 part 14 item 8, S.I. No. 887 of 2004.
- F27** Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 7, S.I. No. 502 of 2013.
- F28** Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 96, S.I. No. 648 of 2010.

Exercise of jurisdiction by court.

14.—(1) The jurisdiction of the court in respect of civil proceedings under this Act may be exercised—

- (a) as regards the Circuit Court, by the judge of the circuit, and
- (b) as regards the District Court, by the judge of the District Court for the time being assigned to the district court district,

where the applicant resides or, if the application is for a barring order, where there is situate the place in relation to which that application was made.

(2) For the purposes of *subsection (1)*, the court may treat any person concerned as residing at a place where that person would, but for the conduct of the respondent, be residing at.

(3) Where a judge of the District Court to whom *subsection (1)* relates is not immediately available, the jurisdiction of the District Court under that subsection may be exercised by any judge of the District Court.

Rules of court.

15.—(1) For the purpose of ensuring the expeditious hearing of applications under this Act, rules of court may make provision for the service of documents otherwise than under section 7 (as amended by section 22 of the Courts Act, 1971) of the Courts Act, 1964, in circumstances to which that section relates.

(2) This section is without prejudice to section 17 of the Interpretation Act, 1937, which provides for rules of court.

Annotations

Editorial Notes:

- E12** The *Interpretation Act 1937* was repealed (1.01.2006) by *Interpretation Act 2005* (23/2005), s. 3(1), commenced as per s. 1(2). Under the rule of construction in s. 26(2)(f) of the 2005 Act, the reference in subs. (2) should now be read as referring to s. 24 of that Act.

Hearing of civil proceedings, etc.

16.—(1) Civil proceedings under this Act shall be heard otherwise than in public.

(2) Where under *section 9* the court hears together applications under several enactments, then the court shall as far as is practicable comply with the requirements relating to the hearing of applications under each of those enactments and the other relevant provisions of those Acts shall apply accordingly.

(3) (a) Civil proceedings under this Act before the District Court shall be as informal as is practicable and consistent with the administration of justice.

(b) District Court judges hearing and determining civil proceedings under this Act and barristers and solicitors appearing in such proceedings shall not wear wigs or gowns.

(4) Civil proceedings under this Act before the Circuit Court shall be heard by the Circuit Family Court and, accordingly, the provisions of section 32 and subsection (1) and (2) of section 33 of the Judicial Separation and Family Law Reform Act, 1989, shall apply to such proceedings.

(5) The proceedings to which subsections (3) and (4) of section 33 of the Judicial Separation and Family Law Reform Act, 1989, apply shall be deemed to include civil proceedings under this Act.

Annotations

Modifications (not altering text):

- C4** Application of section affected (31.03.2005) by *Civil Liability and Courts Act 2004* (31/2004), s. 40, S.I. No. 544 of 2004, as amended (1.08.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 31, S.I. No. 274 of 2008; and as amended (11.01.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 5, S.I. No. 5 of 2014.

Proceedings heard otherwise than in public.

40.— ...

(2) For the purposes of this section each of the following shall be a “relevant enactment”— ...

(k) section 16 of the Domestic Violence Act 1996.

(3) Nothing contained in a relevant enactment shall operate to prohibit—

(a) the preparation by a barrister at law or a solicitor or a person falling within any other class of persons specified in regulations made by the Minister and publication of a report of proceedings to which the relevant enactment relates, or

(b) the publication of the decision of the court in such proceedings,

in accordance with rules of court, provided that the report or decision does not contain any information which would enable the parties to the proceedings or any child to which the proceedings relate to be identified and, accordingly, unless in the special circumstances of the matter the court, for reasons which shall be specified in the direction, otherwise directs, a person referred to in paragraph (a) may, for the purposes of preparing [such a report—

(i) attend the proceedings, and

(ii) have access to any relevant documents,

subject to any directions the court may give in that behalf.]

[(3A) (a) Subject to paragraph (b), nothing contained in a relevant enactment shall operate to prohibit bona fide representatives of the Press from attending proceedings to which the relevant enactment relates.

(b) Subject to paragraphs (c) and (d), where, in proceedings under a relevant enactment, a court is satisfied that it is necessary to do so—

(i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate,

(ii) by reason of the nature or circumstances of the case, or

(iii) as it is otherwise necessary in the interests of justice,

the court may, on its own motion, or on application to it by a party to the proceedings or by a person on behalf of a child to whom the proceedings relate, by order—

(I) exclude, or otherwise restrict the attendance of, bona fide representatives of the Press from the court during the hearing or particular parts of it, or

(II) prohibit or restrict the publication or broadcasting of any evidence given or referred to during the proceedings or any part of such evidence,

and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.

(c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of—

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

- (v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;
 - (vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings;
 - (vii) whether information given or likely to be given in evidence is commercially sensitive information; and
 - (viii) whether information of the type referred to in subparagraphs (iii), (vi) and (vii) when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.
- (d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of maturity of the child concerned.
- (e) Where evidence in proceedings to which a relevant enactment relates concerns a matter referred to in subparagraph (vi) of paragraph (c), an application under paragraph (b) may be made by or on behalf of the Director of Public Prosecutions.
- (f) In this subsection—
- ‘commercially sensitive information’ means—
- (i) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or
 - (ii) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;
- ‘party to the proceedings’ includes a witness in the proceedings;
- ‘sensitive personal information’ means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—
- (i) information relating to the medical, psychiatric or psychological history of the person,
 - (ii) information relating to the tax affairs of the person,
 - (iii) information relating to the sexual conduct or sexual orientation of the person.]
- (4) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from supplying copies of, or extracts from, orders made in the proceedings to such persons and in accordance with such conditions (if any) as may be prescribed by order of the Minister.
- (5) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from being accompanied, in such proceedings, in court by another person subject to the approval of the court and any directions it may give in that behalf.
- (6) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the production of a document prepared for the purposes or in contemplation of such proceedings or given in evidence in such proceedings, to—
- (a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or
 - (b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.
- (7) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the giving of information or evidence given in such proceedings to—

(a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(8) A court hearing proceedings under a relevant enactment shall, on its own motion or on the application of one of the parties to the proceedings, have discretion to order disclosure of documents, information or evidence connected with or arising in the course of the proceedings to third parties if such disclosure is required to protect the legitimate interests of a party or other person affected by the proceedings.

(9) A hearing, inquiry or investigation referred to in subsection (6) or (7) shall, in so far as it relates to a document referred to in subsection (6) or information or evidence referred to in subsection (7), be conducted otherwise than in public and no such document, information or evidence shall be published.

(10) This section shall apply to proceedings brought, and decisions of a court made, whether before or after the commencement of this section.

[(11) In subsection (3), 'relevant documents', in relation to any proceedings referred to in that subsection—

(a) subject to paragraph (b), means—

(i) the petition, summons or other originating document in the proceedings,

(ii) pleadings and other documents (including the terms of settlement, if any) produced to or lodged with the court, or included in the book of pleadings, in the course of the proceedings, and

(iii) any order made by the court in the proceedings,

(b) does not include any document the contents of which are expressed to be without prejudice or in terms having a like effect.]

Offences.

17.—(1) A respondent who—

(a) contravenes a safety order, a barring order, an interim barring order or a protection order, or

(b) while a barring order or interim barring order is in force refuses to permit the applicant or any dependent person to enter in and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or such dependent person from so doing,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both.

(2) *Subsection (1)* is without prejudice to the law as to contempt of court or any other liability, whether civil or criminal, that may be incurred by the respondent concerned.

Annotations

Editorial Notes:

- E13** Offence under section designated an excluded offence by *National Vetting Bureau (Children and Vulnerable Persons) Act 2012* (47/2012), s. 14A and sch. 3 item 1, as inserted (29.04.2016) by *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016* (4/2016), s. 29, S.I. No. 215 of 2016.

Arrest without warrant.

18.—(1) (a) Where a member of the Garda Síochána has reasonable cause for believing that, in respect of an order under this Act, an offence is being or has been committed under *section 17* the member may, on complaint being made to him or her by or on behalf of the person who was the applicant to which the order relates, arrest the respondent concerned without warrant.

(b) For the purpose of arresting a respondent under *paragraph (a)*, a member of the Garda Síochána may enter, if need be by force, and search any place where the member, with reasonable cause, suspects the respondent to be.

(2) Where a member of the Garda Síochána has reasonable cause for believing that a person (in this section referred to as “the first-mentioned person”) is committing or has committed—

(a) an assault occasioning actual bodily harm, or

(b) an offence under section 20 (which relates to unlawfully and maliciously wounding or inflicting any grievous bodily harm) of the Offences against the Person Act, 1861,

against a person (in this section referred to as “the second-mentioned person”) in circumstances which in the opinion of the member could give rise to the second-mentioned person applying for, or on whose behalf another person could in accordance with this Act apply for, a safety order or a barring order, then the member may—

(i) arrest the first-mentioned person without warrant, and

(ii) for the purpose of making such an arrest, enter, if need be by force, and search any place where the member, with reasonable cause, suspects the first-mentioned person to be.

Annotations

Editorial Notes:

E14 *Offences Against the Person Act 1861*, s. 20 repealed (19.08.1997) by *Non-Fatal Offences Against the Person Act 1997* (26/1997), s. 31 and sch., commenced as per s. 32(2). The offences under ss. 2, 3 and 4 of the 1997 Act are similar to those under s. 20.

Costs.

19.—The costs of any civil proceedings under this Act shall be in the discretion of the court.

Amendment of Judicial Separation and Family Law Reform Act, 1989.

20.—The Judicial Separation and Family Law Reform Act, 1989, is hereby amended—

(a) in section 11, by the substitution of the following paragraph for paragraph **(a)**:

“(a) a safety order, barring order, interim barring order or protection order pursuant to *section 2, 3, 4 or 5*, respectively, of the *Domestic Violence Act, 1996*;”,

(b) in section 16, by the substitution of the following paragraph for paragraph **(e)**:

“(e) an order under section 2, 3, 4 or 5 of the *Domestic Violence Act, 1996*;”,
and

(c) in section 19, by the substitution of “the *Domestic Violence Act, 1996*” for “the *Family Law (Protection of Spouses and Children) Act, 1981*”.

Amendment of Family Law Act, 1995.

21.—The Family Law Act, 1995, is hereby amended—

(a) in section 2, by the deletion of the definition of “the Act of 1981” and the insertion of the following definition after the definition of “the Act of 1989” in subsection (1):

“‘the Act of 1996’ means the *Domestic Violence Act, 1996*;”,

(b) in section 6, by the substitution of the following paragraph for paragraph (a):

“(a) an order under *section 2, 3, 4 or 5 of the Act of 1996*,”

(c) in section 10, by the substitution of the following paragraph for paragraph (d) of subsection (1):

“(d) an order under *section 2, 3, 4 or 5 of the Act of 1996*,”

and

(d) in section 47, by the substitution of the following paragraph for paragraph (d) of subsection (6):

“(d) under *the Act of 1996*,”.

Saving provisions. **22.**—(1) Where, by reason only of an interim barring order or a barring order, a person is not residing at a place during any period, that person shall be deemed, for the purposes of any rights under the Statutes of Limitation, 1957 and 1991, the Landlord and Tenant Acts, 1967 to 1994, and the Housing (Private Rented Dwellings) Acts, 1982 and 1983, to be residing at that place during that period.

(2) Except in so far as the exercise by a respondent of a right to occupy the place to which a barring order or an interim barring order relates is suspended by virtue of the order, the order shall not affect any estate or interest in that place of that respondent or any other person.

Repeal and transitional provisions. **23.**—(1) The Family Law (Protection of Spouses and Children) Act, 1981 (in this section referred to as “the Act of 1981”), is hereby repealed.

(2) (a) Subject to *paragraph (b)*, this Act shall apply to a barring order made under the Act of 1981 and which is in force, or stayed by virtue of section 10 of that Act, at the commencement of this Act as if it were an order made under *section 3*.

(b) For the purposes of a barring order to which *paragraph (a)* relates, the reference in *section 3 (8)* to the expiration of three years after the date of its making shall be construed as a reference to twelve months after the date of its making.

(3) An application made to the court under the Act of 1981 for a barring order and not determined before the commencement of this Act shall be treated as if it had been made under *section 3*.

(4) This Act shall apply to a protection order made under the Act of 1981 and which is in force at the commencement of this Act as if it were an order made under *section 5*.

Expenses.

24.—The expenses incurred by the Minister for Equality and Law Reform, the Minister for Health and the Minister for Justice in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Annotations**Modifications (not altering text):**

- C5** “Minister for Justice and Law Reform” construed (2.04.2011) by *Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 138 of 2011), in effect as per art. 1(2).
4. In an enactment or instrument made under an enactment— ...
- (b) references to the Minister for Justice and Law Reform shall be construed as references to the Minister for Justice and Equality.
- C6** “Minister for Justice, Equality and Law Reform” construed (2.06.2010) by *Justice, Equality and Law Reform (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 216 of 2010), in effect as per art. 1(2).
4. In an enactment or instrument made under an enactment— ...
- (b) references to the Minister for Justice, Equality and Law Reform shall be construed as references to the Minister for Justice and Law Reform.
- C7** “Minister for Justice” construed (9.07.1997) by *Justice (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 298 of 1997), art. 4, in effect as per art. 1(2).
4. In any enactment— ...
- (b) references to the Minister for Justice shall be construed as references to the Minister for Justice, Equality and Law Reform.
- C8** “Minister for Equality and Law Reform” construed (8.07.1997) by *Equality and Law Reform (Transfer of Departmental Administration and Ministerial Functions) Order 1997* (S.I. No. 297 of 1997), art. 4(2).
- (2) References to the Minister for Equality and Law Reform contained in any Act or instrument made thereunder and relating to any functions transferred by this Article shall, on and after the commencement of this Order, be construed as references to the Minister for Justice.

Commencement. **25.—**(1) Subject to *subsection (2)*, this Act shall come into operation one month after the date of its passing.

(2) *Section 6* and so much of the other provisions of this Act as relate to that section shall come into operation on the 1st day of January, 1997.

Short title. **26.—**This Act may be cited as the Domestic Violence Act, 1996.

ACTS REFERRED TO

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| Adoption Acts, 1952 to 1991 | |
| Adoption Act, 1991 | No. 14 of 1991 |
| Age of Majority Act, 1985 | No. 2 of 1985 |
| Child Care Act, 1991 | No. 17 of 1991 |
| Courts Act, 1964 | No. 11 of 1964 |
| Courts Act, 1971 | No. 36 of 1971 |
| Family Home Protection Act, 1976 | No. 27 of 1976 |
| Family Law Act, 1995 | No. 26 of 1995 |
| Family Law (Maintenance of Spouses and Children) Act, 1976 | No. 11 of 1976 |
| Family Law (Protection of Spouses and Children) Act, 1981 | No. 21 of 1981 |
| Guardianship of Infants Act, 1964 | No. 7 of 1964 |
| Health Act, 1970 | No. 1 of 1970 |
| Housing (Private Rented Dwellings) Acts, 1982 and 1983 | |
| Interpretation Act, 1937 | No. 38 of 1937 |
| Judicial Separation and Family Law Reform Act, 1989 | No. 6 of 1989 |
| Landlord and Tenant Acts, 1967 to 1994 | |
| Offences against the Person Act, 1861 | 24 & 25 Vict. c. 100 |
| Status of Children Act, 1987 | No. 26 of 1987 |
| Statutes of Limitation, 1957 and 1991 | |