

DOMESTIC VIOLENCE ORDINANCE

Long title

To provide protection of persons from domestic violence and for matters ancillary thereto.

[19 December 1986] L.N. 305 of 1986

(Originally 48 of 1986)

SECT 1

Short title

This Ordinance may be cited as the [Domestic Violence Ordinance](#).

SECT 2

Interpretation and application

(1) In this Ordinance, unless the context otherwise requires-

"child" (兒童) means a person under the age of 18 years; (Amended 80 of 1997 s. 25)

"matrimonial home" (婚姻居所) includes a home in which the parties to a [marriage](#) ordinarily reside together whether or not it is occupied at the same time by other persons.

(2) Subject to [section 6](#)(3) this Ordinance shall apply to the cohabitation of a man and a woman as it applies to [marriage](#) and references in this Ordinance to "marriage" (婚姻) and "matrimonial home" (婚姻居所) shall be construed accordingly.

"child" (兒童)

"matrimonial home" (婚姻居所)

"marriage" (婚姻)

SECT 3

Power of District Court to grant injunction

(1) On an application by a party to a [marriage](#) the District Court, if it is satisfied that the applicant or a [child](#) living with the applicant has been molested by the other party to the [marriage](#) and subject to [section 6](#), may grant an injunction containing any or all of the following provisions-

- (a) a provision restraining that other party from molesting the applicant;
- (b) a provision restraining that other party from molesting any [child](#) living with the applicant;
- (c) a provision excluding that other party from the [matrimonial home](#), or from a specified part of the [matrimonial home](#), or from a specified area whether or not the [matrimonial home](#) is included in that area;
- (d) a provision requiring that other party to permit the applicant to enter and remain in the [matrimonial home](#) or in a specified part of the [matrimonial home](#), whether or not any other relief is being sought in the proceedings.

(2) In the exercise of its jurisdiction to grant an injunction containing a provision mentioned in subsection (1)(c) or (d) the District Court shall have regard to the conduct of the parties, both in relation to each other and otherwise, to their respective needs and financial resources, to the needs of any [child](#) living with the applicant and to all the circumstances of the case.

[cf. 1976 c. 50 s. 1 U.K.]

SECT 4

Court of First Instance may exercise powers of District Court in certain cases

(Past version on [30/06/1997](#)).

Amendments retroactively made - see 25 of 1998 s. 2 The Court of First Instance may exercise the powers conferred on the District Court under [section 3](#)-

- (a) in a case of urgency; or
- (b) where the Court of First Instance is satisfied that special circumstances are present which make it appropriate for the Court of First Instance rather than the District Court to exercise those powers. (Amended 25 of 1998 s. 2)

SECT 5

Arrest for breach of order

(Past version on [30/06/1997](#)).

Amendments retroactively made - see 25 of 1998 s. 2

(1) Where, on an application by a party to a [marriage](#), the Court of First Instance or the District Court grants an injunction (whether pursuant to jurisdiction conferred by this Ordinance or pursuant to any other jurisdiction) containing a provision, in whatever terms, which-

- (a) restrains the other party from using violence against the applicant or a [child](#) living with the applicant; or
- (b) excludes that other party from the [matrimonial home](#) or from a specified part of the [matrimonial home](#) or from a specified area, the Court of First Instance or the District Court, as the case may be, if it is satisfied that the other party has caused actual bodily harm to the applicant or, as the case may be, to the [child](#) concerned, may, subject to [section 6](#), at the same time as it grants the injunction or at any time during the period for which the injunction is granted, attach to the injunction a power of arrest in the prescribed form.

(2) Where under subsection (1) a power of arrest is attached to an injunction a police officer may arrest without warrant any person whom he reasonably suspects of being in breach of the injunction by reason of that person's use of violence or, as the case may be, his entry into any premises or area specified in the injunction, and the police officer shall have all necessary powers including the power of entry by the use of reasonable force to effect that arrest.

(3) Where a person is arrested under subsection (2) he shall-

- (a) be brought-
 - (i) in the case of a power of arrest attached under subsection (1) to an injunction by the Court of First Instance, before the Court of First Instance; and
 - (ii) in the case of a power of arrest attached under that subsection to an injunction by the District Court, before the District Court, before the expiry of the day after the day of his arrest; and
- (b) not be released within the period referred to in paragraph (a) except on the direction of the Court of First Instance or of the District Court, as the case may be, but nothing in

this section shall authorize his detention at any time after the expiry of the period mentioned in paragraph (a).

(4) [Section 71](#) of the [Interpretation and General Clauses Ordinance](#) ([Cap 1](#)) shall not apply to this section except in so far as that section applies to a gale warning day. (Amended 25 of 1998 s. 2) [cf. 1976 c. 50 s. 2 U.K.]

SECT 6

Limitations with respect to certain injunctions and powers of arrest

(1) A provision mentioned in [section 3](#)(1)(c) or (d) contained in an injunction granted under this Ordinance shall have effect for such period, not exceeding 3 months, as the court considers necessary.

(2) A power of arrest attached under [section 5](#)(1) to an injunction shall-

(a) be granted for such period, not exceeding 3 months, as the court considers necessary; and

(b) lapse on the expiry of the period for which the injunction was granted.

(3) Nothing in this Ordinance shall authorize a court on an application by one of the parties to a relationship to which this Ordinance applies by virtue of [section 2](#)(2) to grant an injunction containing a provision mentioned in [section 3](#)(1)(c) or (d), or, under [section 5](#)(1), attach to an injunction a power of arrest, unless that court is satisfied that having regard to the permanence of that relationship it is appropriate in all the circumstances to grant that injunction or attach that power of arrest.

SECT 7

Power of court to grant extension

A court may extend-

(a) an injunction granted under this Ordinance containing a provision mentioned in [section 3](#)(1)(c) or (d); or

(b) a power of arrest attached to an injunction under [section 5](#)(1), prior to the expiry of the period thereof for a further period so that the total period thereof does not exceed 6 months from the date when that injunction was granted or that power of arrest attached.

SECT 8

Rules of practice and procedure

(Past version on [30/06/1997](#)).

Amendments retroactively made - see 25 of 1998 s. 2 The Chief Justice may make rules for the purposes of this Ordinance in respect of the following matters-

- (a) the hearing and determination of applications under this Ordinance;
- (b) forms to be used in connection with any application or order under this Ordinance;
- (c) the service of documents;
- (d) the attendance of parties;
- (e) the release on bail of persons arrested under a power of arrest attached, under [section 5\(1\)](#), to an injunction; and
- (f) the transfer of proceedings commenced in the Court of First Instance from the Court of First Instance to the District Court and of proceedings commenced in the District Court from the District Court to the Court of First Instance. (Amended 25 of 1998 s. 2)

SECT 9

Saving as to existing jurisdiction

(Past version on [30/06/1997](#)).

Amendments retroactively made - see 25 of 1998 s. 2 The powers conferred under this Ordinance shall be in addition to and not in derogation from the powers of the Court of First Instance and the District Court. (Amended 25 of 1998 s. 2)

SECT 10

Injunctions not to be registered

An injunction containing a provision mentioned in [section 3\(1\)\(c\)](#) or (d) shall not be registered under the [Land Registration Ordinance](#) ([Cap 128](#)).

SECT 11

Powers of the court to be exercised by a judge

(Past version on [30/06/1997](#)).

Amendments retroactively made - see 25 of 1998 s. 2

(1) The powers conferred by this Ordinance on the Court of First Instance shall be exercised by a judge. (Amended 25 of 1998 s. 2)

(2) The powers conferred by this Ordinance on the District Court shall be exercised by a District Judge.

The online version for domestic violence:

<http://www.hklii.org/hk/legis/en/ord/189/>, you may click on the section numbers to view the full content of the Ordinance.

or <http://www.hklii.org/hk/legis/en/ord/>, click on Chapter 189 Domestic Violence Ordinance.