



GOVERNMENT OF SAINT LUCIA

A Practitioner's Guide to the

DOMESTIC VIOLENCE ACT No. 11 OF 2022



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Forward

Saint Lucia has invested considerable effort in the struggle to end violence against women in accordance with its commitment to the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW), ratified in 1982 and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women – (Belem do Para) ratified in 1995. Law reform is a manifestation of this commitment.

In 1995 the Saint Lucia Parliament passed a Domestic Violence Summary Proceedings Act drafted from the CARICOM Model Domestic Violence legislation as part of what is referred to as second generation law reform for the Caribbean. The Organization of Eastern Caribbean States (OECS) introduced model family law legislation in 2000, which included Domestic Violence Legislation as part of a suite of five family law bills. In 2016 a Domestic Violence Bill was drafted for Saint Lucia from the OECS Model Domestic Violence Bill, through the first phase of the OECS Juvenile Justice Reform Project funded by USAID.

The decision as to whether Saint Lucia should introduce new legislation or amend the Domestic Violence Summary Proceedings Act of 1995 necessitated a comparative analysis between the Domestic Violence (Summary Proceedings) Act of 1995 and the Domestic Violence Bill drafted in 2016.

The comparative analysis revealed that the Domestic Violence Bill of 2016 was a superior piece of legislation to the existing legislation and recommended the repeal of the existing Act in favour of the more progressive legislation.

In order to ensure that the new proposed legislation was robust and progressive, Saint Lucia took advantage of the opportunity presented by the Equality and Justice Alliance Initiative through Sisters for Change to further conduct a comparative analysis of the 2016 Domestic Violence Bill with other pieces of Domestic Violence legislation in and out of the region. The Department of Gender Relations, now the Department of Gender Affairs engaged in a consultative process through the convening of national and technical consultations of the findings from 2019 to 2020.

The recommendations proposed for the amendment of the 2016 Domestic Violence Bill, reflected the views of both technical experts in the field of

Domestic Violence and the wider group of stakeholders of Gender-based Violence in Saint Lucia. The updated draft was released by the Attorney General's Chambers in November 2021 and a final draft tabled in the House of Assembly on 8th March, 2022 and in the Senate on 10th March, 2022. It was assented¹ on 16th March, 2022.

This Guide is intended to serve as a tool to support capacity development of key Government officials and Civil Society Organizations (CSOs) on the **Domestic Violence Act No. 11 of 2022**, to enable them to more effectively perform their roles in providing services to victims of domestic violence.

Individuals, groups and the general public can also use this Guide to understand Saint Lucia's policy framework and legal recourse for protection from domestic violence.

The Guide is designed to make the **Domestic Violence Act No. 11 of 2022** easy to understand.

The **Domestic Violence Act No. 11 of 2022** provides for the protection of victims of domestic violence, the grant of protection orders and for related matters.

¹ The Governor General signed the Bill making it an Act of Parliament.

Table of Contents

Forward	i
1. Interpretation and Definitions	1
1.1 Who is an Applicant.....	1
1.2 Definition of Child	1
1.3 Respondent.....	2
1.4 Domestic Relationship	2
1.5 Domestic Violence.....	3
1.6 Economic Abuse	4
2. The Prohibition of Domestic Violence	5
2.1 What is prohibited under the Act.....	5
2.2 Duties of the Police as it pertains to domestic violence.....	5
2.2.1 Report on acts of domestic violence to a police officer.....	5
2.2.2 Duties of the police in relation to acts of domestic violence	7
2.3 Powers of the police	9
2.3.1 Entry without warrant	9
2.3.2 Entry with a warrant.....	10
2.3.4 Arrest by a police officer	11
2.3.5 Detention by a police officer.....	12
2.4 Powers of the Court	13
2.4.1 Bail.....	13

3. Protection Orders	14
3.1 Interim Protection Orders	14
3.1.1 Application by a victim.....	14
3.1.2 Application on behalf of a victim.....	14
3.1.3 Application by a witness	15
3.1.4 Time for submitting an application	16
3.1.5 Contents of and accompanying documents with an application.....	16
3.1.6 Matters to be considered by the Court prior to granting the order.....	17
3.1.7 Validity of an interim protection order	19
3.1.8 Service of an interim protection order and notice of proceedings for a final protection order	19
3.1.9 Substituted service of an protection order and notice of proceedings for a final protection order	20
3.2 Filing of an affidavit by a respondent	21
3.2.1 Service of an affidavit filed by a respondent.....	22
3.2.2 Affidavit in reply to the affidavit filed by the respondent.....	22
3.2.3 Service of affidavit in reply	22
3.3 Final Protection Order	22
3.3.1 Proceedings in the absence of the respondent	22
3.3.2 Proceedings in the absence of the applicant.....	23
3.3.3 Documents to be submitted to the Court.....	23
3.3.4 Bonds for good behavior <i>in lieu</i> of final protection order or penalty	24
3.3.5 Forfeiture of a bond of good behavior	25

3.3.6 Grant or refusal of a protection order.....	26
3.3.7 Notice and service of a final protection order	26
3.3.8 Explanation to respondent by the Court.....	27
3.3.9 Terms of a protection order.....	27
3.4 Contravention of a protection order	31
3.4.1 Report of contravention	31
3.4.2 Penalties for contravention of a protection order .	32
3.4.3 Variation or revocation of protection orders.....	32
3.4.4 Service and grant of application for variation or revocation	33
3.4.5 Protection order as evidence of a material fact in other proceedings.....	34
3.4.6 Protection of mortgage.....	34
3.4.7 Property rights.....	35
3.4.8 Appeals	35
4. Conduct of Proceedings.....	36
4.1 Persons who may be present during the hearing of any proceedings under the Act	36
4.2 Standard of proof	37
4.3 Restriction on publication of report of proceedings.....	37
5 Non-Legislative Measures to Complement the Act.....	39
5.1 Powers of the Minister	39

5.2 Training of Criminal Justice and Health Authorities	40
5.3 Non-Discrimination of Victims.....	41
Appendix 1	I
Schedule 1: Information to victim and applicant regarding his/her rights.....	I
Appendix 2	III
Forms	III

1. Interpretation and Definitions

1.1 Who is an Applicant

A person, including a witness, a child or dependent who is or has been in a domestic relationship with the Respondent and who applies, or on whose behalf an application is made under this law.

1.2 Definition of Child

- Person below the age of 18 who resides with the applicant or respondent, whether or not, that person is a child of both or either of them.
- Could be biological, adopted, stepchild, foster child, or person treated as a child of the family.
- A descendant or related by blood (consanguinity) or affinity to the applicant or respondent.
- In the care and protection of the applicant or respondent.

- Is or has been a member of the shared household, but not married or a cohabitant of either the applicant or respondent.

1.3 Respondent

A person who is, or has been in a domestic relationship with the applicant, and against whom the application is made or obtained under this law.

Usually the respondent is the alleged perpetrator or person who commits domestic violence against the victim.

1.4 Domestic Relationship

Relations between an applicant and a respondent **who:**

- are, or were married to each other under any law, custom or religion;
- are, or were cohabitants,
- are the parents of a child or had parental responsibility of the same child, whether or not at the same time;
- are family members related by consanguinity, affinity² or adoption,

² A strong connection or relationship between people.

- are family members related by affinity where the cohabitants were married
- are, or were in an engagement, dating or in a visiting relationship (*romantic, intimate or sexual partners who do not live together*);
- shared or share the same household or residence;
- are in or have been in a relationship determined by the court to be in a domestic relationship.

1.5 Domestic Violence

Refers to any controlling or abusive behaviour or conduct that harms, injures or endangers the health, safety, life, limb or well-being of a person whether mental or physical inclusive of:

- physical abuse or threats of physical abuse;
- sexual abuse or threats of sexual abuse, emotional, verbal or psychological abuse;
- coercion;
- molestation, arbitrary deprivation of liberty or forced confinement;
- economic abuse;
- intimidation, harassment;
- stalking and cyber stalking with intent to harass, intimidate, torment or embarrass that person;

- damage to, destruction or deprivation of property as well as entry into the applicant's residence without consent, where the parties do not share the same residence.

1.6 Economic Abuse

Not making the financial obligations owed to the applicant and child or a dependent of the respondent; and engaging in a pattern of behaviour designed to exercise coercive control over, exploit or limit a person's access to financial resources so as to ensure financial dependence; including deprivation and or such threats of any or all economic/financial resources to which the applicant is legally entitled to, or needs including household supplies, mortgage repayments, rental obligations, in respect of the shared household, the disposal or threatened disposal of household effects or other property in which the applicant has an interest;

Taking away assets (whether movable or immovable) shares, securities, bonds or property to which the applicant has an interest or is entitled to use by virtue of the relationship, or which may be reasonably required by the applicant and children, or any other property owned jointly or separately by the applicant; prohibiting or restricting access to resources or facilities which the applicant is entitled

to use or enjoy by virtue of the domestic relationship including access to the shared household.

2. The Prohibition of Domestic Violence

2.1 What is prohibited under the Act

A person shall not commit an act of Domestic Violence

If a person commits an act of domestic violence he/she is liable, on summary conviction, to a fine up to ten thousand dollars (\$10,000) or up to five (5) years imprisonment or both³.

2.2 Duties of the Police as it pertains to domestic violence

2.2.1 Report on acts of domestic violence to a police officer

A person may make a report to a police officer regarding an act of domestic violence. A domestic violence report shall include but is not limited to:

³ If there is a crime committed under the Criminal Code Cap. 3.01, additional charges and still be effected

- the name and address of the parties
- the nature of the act of domestic violence;
- the date, time and location of the act of domestic violence, if not reported at the time committed

In the case of a child where someone has knowledge or reasonable grounds to suspect that an act of domestic violence against a child is being committed, is likely to be committed or has been committed, the person⁴ shall immediately make a report to a police officer.⁵ A psychologist, health practitioner with a valid practicing certificate⁶, a nurse⁷, an assigned officer⁸, a teacher and a person who is in a position of trust or authority towards a child are some of the persons mandated to make such a report.

Should any of those persons fail or refuse to make this report to the police officer without reasonable cause, an offence is committed and is liable to conviction.⁹ A civil action shall not be brought

⁴ Person in relation to clause 7(2) of the Domestic Violence Act No. 11 of 2022

⁵ Subject to Child (Care, Protection and Adoption) Act Cap. 4.07

⁶ Under the Health Practitioners Act Cap. 11.06

⁷ Registered under Registration of Nurses and Midwife Act Cap. 11.08

⁸ As defined in s.2 of the Domestic Violence Act No. 11 of 2022

⁹ s.7(5) of the Domestic Violence Act No. 11 of 2022

against such a person who makes a report in good faith.

2.2.2 Duties of the police in relation to acts of domestic violence

- Where a police officer receives a report of domestic violence, 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.
- The 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.
- A police officer responding to a report of an act of domestic violence shall in conducting an investigation pay attention to the following:
 - Assist the victim or person who has suffered injury
 - Ensure the welfare and safety of a child or dependent who is on the premises
 - Prevent any further breach of the law
 - Interview:
 - Parties and witnesses to the act of domestic violence but in separate location

- A child who is a party or witness to domestic violence in the presence of the parents of the child or the Director of Human Services where the parent is the accused person.
- Conduct a risk assessment of the alleged victim, child or dependent
- At the scene of the act of domestic violence, inform the victim his or her rights¹⁰
- Make a complaint in accordance with the Criminal Procedure Rules¹¹
- Subject to the Criminal Procedure Rules, a complaint must include:
 - In relation to the parties involved in an act of domestic violence the name, gender, type of domestic relationship and history of acts of domestic violence between the parties

¹⁰ See Schedule in the Act

¹¹ Criminal Code Cap. 3.01

- In relation to a child, involved in an act of domestic violence, the name, gender and age
- The address or location where the act of domestic violence is committed, has been committed or likely to be committed
- The nature of the act of domestic violence and weapon used if any
- The names of any person (s) other than the parties or witnesses
- The date and time the complaint was received by the police officer

The complaint must be provided to the victim and the Director of Family Court.

2.3 Powers of the police

2.3.1 Entry without warrant

A Police Officer may exercise a power of entry¹² into premises where the Police Officer has reasonable cause to believe that a person is engaging in, or attempting to engage in conduct amounting to physical violence, and failure to act immediately, result in serious physical injury or death.

¹² Without prejudice to the Criminal Code Cap. 3.01

Where a police officer exercises such a power of entry, she/he shall immediately submit a written report, to the Commissioner of Police through his/her supervisor.

This Report shall contain:

- the reason for entering the premises without a warrant
- the offence being committed or about to be committed
- the manner in which the investigation was conducted and
- the measures taken to ensure the protection and safety of the victim

2.3.2 Entry with a warrant

Where a person denies a police officer entry without a warrant, the police officer shall make an application to a magistrate for a warrant to enter the premises on which she/he reasonably believes an act of domestic violence has been committed, is being committed or is likely to be committed.¹³

A magistrate may, in considering that application, issue a warrant in writing authorizing the police officer to enter the premises. The warrant must specify the premises on which the officer is

¹³ Ibid.

authorized to enter, the time period for execution of the warrant and any other condition as the magistrate determines.

2.3.4 Arrest by a police officer

A police officer may arrest a person, including a child, without a warrant, where the police officer reasonably suspects that the person or child has committed, is committing or is likely to commit an act of domestic violence.¹⁴

Where a child is arrested the police officer shall immediately notify the parent, the Director of Human Services or a probation officer. The Director of Human Services and a probation officer should only be called where they have assumed responsibility for the child under the Child (Care, Protection and Adoption) Act Cap. 4.07.

A police officer may also arrest a person at the scene of the incident of domestic violence, **without a warrant**, if he reasonably suspects that the person is committing, has committed, or is about to commit a domestic violence offence, and there is no other way to prevent the commission of the offence.

¹⁴ Ibid.

A police officer may arrest a person without a warrant where the officer believes on reasonable grounds, that a person has

- been granted bail¹⁵ subject to a condition
- failed to comply with a condition of a recognizance

2.3.5 Detention by a police officer

A police officer, after arresting a child, will detain the child in a separate place to where an adult is being held in police custody. This provision does not apply where a police officer reasonably believes that the child is an adult.

While conducting an investigation a police officer may arrest or detain any person¹⁶.

Where a child is detained in a court by a police officer, notwithstanding the provisions of the Domestic Violence Act No. 11 of 2022, the Commissioner of Police shall issue directives for the treatment of the child.¹⁷

¹⁵ See Powers of the Court 1.8

¹⁶ s.8(2), s.11 of the Domestic Violence Act No. 11 of 2022, Cap.3.01

¹⁷ s.44(5) Child Justice Act Cap. 3.09

2.4 Powers of the Court

2.4.1 Bail

Where a criminal court has to determine whether to grant bail¹⁸ for an act of domestic violence, the court must consider the following:

- the need to protect the applicant from acts of domestic violence
- the welfare of a child or dependent if the respondent or applicant has custody of the child or dependent
- the welfare of a child or dependent of the household
- any hardship that may be caused to the respondent or other members of his/her family where bail is not granted

In granting bail the court may order that the recognizance may be subject to the following conditions that the respondent:

- does not harass, molest or cause another person to harass or molest the applicant
- is not present on the premises in which the applicant works or resides

¹⁸ Without prejudice to the Criminal Code Cap. 3.01

- is not to be in a locality where the applicant works or resides

3. Protection Orders

3.1 Interim Protection Orders

3.1.1 Application by a victim

A victim may make an *ex parte*¹⁹ application to the court in the prescribed form for an interim protection order on the grounds that the respondent has committed; has threatened to commit; has attempted to commit; or is likely to commit an act of domestic violence.

3.1.2 Application on behalf of a victim

A person may make an *ex parte* application on behalf of the victim:

- where the victim
 - is a child or dependent of that person
 - resides or resided with that person
 - relies on that person for her/his welfare

¹⁹ An application made to the court without notice to the respondent

- is in the custody of the Director of Human Services
- where the person has a material interest in the wellbeing of the person

A person with a material interest in the wellbeing of a victim includes:

- a gazetted officer
- the Director of Human Services
- an assigned officer

A person making an application on behalf of the victim shall obtain the prior written consent of the victim **except** where the victim is a child or by reason of mental disorder or any other temporary or permanent incapacity, whether from intoxication or any other cause, is unable to understand the nature and consequences of the act to which he/she consents.

3.1.3 Application by a witness

Where a witness to an act of domestic violence has reasonable grounds to believe that a crime is likely to be committed against him/her by the person accused of the domestic violence act she/he may make a report to a police officer and make an application for an interim protection.

3.1.4 Time for submitting an application

An application²⁰ may be submitted outside of the ordinary hours of the court 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.

3.1.5 Contents of and accompanying documents with an application

An application²¹ must specify:

- the facts on which the application is based
- the nature of the interim protection order applied for
- the name of the police station closest to the victim's place of residence

The application must be accompanied by:

- an affidavit provided by the victim
- a police complaint
- any other document in support of the application

²⁰ Under s.14, 15 or 16 of the Domestic Violence Act No. 11 of 2022

²¹ Ibid

Where the affidavit contains information with regard to possession of a firearm by the respondent and that injury or harm to another person may result, the court shall cause the Director of Family Court to submit a copy of the affidavit to the Commissioner of Police.

The application must be lodged with the court.

3.1.6 Matters to be considered by the Court prior to granting the order

The court may require further oral evidence or evidence by affidavit to be given.

The Court shall consider

- the nature or history of the acts of domestic violence
- whether a previous protection order has been granted
- the need to protect the victim from further acts of domestic violence
- the welfare of a child or dependent
- the accommodation needs of the victim and any other person
- the hardship that may be caused to the victim
- the income, assets and financial obligations of the respondent, the victim

and any other person affected by the order

- the need to preserve and protect the institution of marriage and domestic relationships
- in the case where the respondent is a child, the Child Justice Act
- any other matter the Court considers relevant

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

If the Court is satisfied that the Respondent has committed, has attempted to commit, has threatened to commit, or is likely to commit an act of domestic violence, the Court shall issue an interim protection order against him/her.

Where the applicant and respondent are parties to civil or criminal proceedings the Court may grant an interim protection order without an application being made to the Court.

The Court shall not refuse to grant an interim protection order where:

- a single act has been committed or a single threat has been made by the respondent

- the acts or threats when viewed in isolation appear to be minor or trivial

At the proceedings for an interim protection order, the Court may

- decide the matter based on affidavit evidence
- request oral evidence

In granting an interim protection order the Court may issue a warrant for the arrest of the respondent to ensure that the respondent is present at the Court.

3.1.7 Validity of an interim protection order

The Court may grant an interim protection order for a period not exceeding **twenty-eight (28) days**.

An interim protection order is **automatically extended** for a further period of **fifteen (15) days** where the Court is unable to hear and determine the proceedings for a final protection order before the expiration of the twenty-eight (28) day period.

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

Where the Court grants an interim protection order, the Director of Family Court shall cause to be served on the respondent or his/her agent, or in the case where the respondent is a child or dependent, on the

parent or person responsible for the child or dependent

- a copy of the interim protection order
- a notice of proceedings for a final protection order in the prescribed form.

A notice of proceedings for a final protection order must specify the location of the Court and the date and time when a person is required to appear before the Court.

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

Where an officer of court is unable to effect personal service, the Court may, on the request of the Director of Family Court, make an order for substituted service of the interim protection order and notice of proceedings for the final protection order.

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

Substituted service means service:

- by registered post to the last known address of the respondent

- by leaving the document at the last known address of the respondent or with his/her relative
- by leaving the document at the workplace of the respondent
- by advertisement in the newspaper of general circulation
- in any other manner as the Court directs

Substituted service is taken to have been effected at midnight on the date of publication of the advertisement and the cost of that advertisement is to be borne by the applicant.

3.2 Filing of an affidavit by a respondent

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

Such an affidavit must specify

- evidence with respect to the act of domestic violence
- reasons for the Court to set aside an interim protection order
- the reasons for not making the final protection order

3.2.1 Service of an affidavit filed by a respondent

An officer of the Court shall immediately serve on the applicant a copy of the affidavit of the respondent.

3.2.2 Affidavit in reply to the affidavit filed by the respondent

The applicant may, on receipt of that affidavit filed by the respondent, file an affidavit in reply by the date specified by the Court.

3.2.3 Service of affidavit in reply

The Court shall serve an affidavit in reply²² on the respondent.

3.3 Final Protection Order

3.3.1 Proceedings in the absence of the respondent

Where a notice of proceedings for a final protection order is served on the respondent²³ and the respondent fails to appear in person on the date and

²² The affidavit filed by the applicant in response to the respondent's affidavit

²³ Via personal or substituted service

time fixed for that matter, the Court may, in the absence of the respondent:

- proceed to hear and determine the matter
- issue a warrant for the respondent to be arrested and brought before the Court
- adjourn the matter
- grant a final protection order

3.3.2 Proceedings in the absence of the applicant

Where the applicant or his/her attorney at law fails to appear in person on the date and time fixed by the Court for the matter and the respondent appears in Court, the Court may, in the absence of the applicant,

- adjourn the matter on terms the Court considers just, having received a reasonable excuse for the non-appearance of the applicant.
- dismiss the application

3.3.3 Documents to be submitted to the Court

On the date fixed by the Court for the proceedings the following documents must be submitted to the Court:

- the application for the interim protection order

- the interim protection order
- the affidavit filed by the respondent
- the affidavit in reply to the affidavit filed by the respondent

3.3.4 Bonds for good behavior *in lieu* of final protection order or penalty

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 instead, require the respondent to enter into a bond of good behavior,

- where the incident was isolated
- there are instances which make it desirable to preserve the family unit
- the conduct complained of is not sufficiently grave to warrant a final protection order or penalty

A bond of good behavior is valid for a period not exceeding six months.

Where a respondent enters this bond of good behavior, the Court may specify additional conditions as follows:

- that the parties
 - receive professional counselling

- attend psycho-educational group therapy
- report to an assigned officer at regular intervals
- the matter be reviewed by the Court within three (3) months

3.3.5 Forfeiture of a bond of good behavior

A respondent forfeits a bond of good behavior where the Court determines that:

- the respondent has engaged in a further act of domestic violence
- based on a report from an assigned officer, the Director or Social Worker or a Police Officer that an act of domestic violence is likely to be committed against the applicant or
- the applicant has become fearful of the respondent to the extent that the applicant is no longer willing to continue the domestic relationship

3.3.6 Grant or refusal of a protection order

On conclusion of proceedings for a final protection order the Court may:

- confirm, amend or set aside the interim protection order
- grant a final protection order in the prescribed form
- refuse to grant a final protection order where
 - the matter is outside the scope of the Act²⁴
 - the limitation period elapses²⁵
 - the complainant is a respondent in another matter under the Act²⁶

3.3.7 Notice and service of a final protection order

The Court shall immediately

- give notice of a final protection order granted in writing to the parties
- serve the respondent the final protection order and the applicant with a certified copy of the same

²⁴ Domestic Violence Act No. 11 of 2022

²⁵ Criminal Code Cap. 3.01

²⁶ Domestic Violence Act No. 11 of 2022

3.3.8 Explanation to respondent by the Court

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

- the contents of the protection order
- the means by which the protection order may be varied or revoked
- the consequences for failing to comply with the protection order

3.3.9 Terms of a protection order

In specifying the terms of a protection order the Court may:

- prohibit the respondent from:
 - Committing any act or future act of domestic violence
 - Getting the help of any other person in committing any act of domestic violence
 - Entering the shared household
 - Entering a specified part of a shared household
 - Entering the residence of the victim or applicant
 - Entering the place of employment of the victim or applicant
 - Preventing the Applicant, child or dependent 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
- Taking possession of, using, damaging, converting or otherwise dealing with property if the victim or applicant
 - Approaching the victim or applicant within a specified distance
 - Committing any other act as specified in the order
- also direct that
 - The conditions of a protection order be applied for the benefit of a child or dependent
 - That the applicant and the respondent or any other person affected receive professional counselling or psychoeducational group therapy²⁷ from a person or agency which is approved in writing by the Director of Family Court
 - The respondent:
 - return to the victim or applicant, specified property is in his/her possession or under his/her control

²⁷ Part III Div.2 Final Protection Order C.37(b)(ii)

- pay monetary relief to the victim or applicant
- pay monetary relief to the victim or applicant for the benefit of child or dependent, where there is no existing order in effect relating to maintenance
- immediately vacate any shared household for a specified period
- make or continue to make payments with respect to rent or mortgage obligations for the property occupied by the applicant
- vacate a shared household
- A police officer
 - remove the respondent immediately or within a specified period from the shared household
 - accompany the applicant, either immediately or within a specified time, to a property to supervise the removal of items belonging to the applicant
- May refuse the respondent contact with a child or dependent where evidence indicates that the contact is not in the best interest of the child or dependent

- Order structured contact with a child or dependent
- Order a police officer to seize a firearm in the possession of a respondent where the affidavit contains information to the effect that the respondent has threatened to injure the victim or the possession of the firearm by the respondent may result in injury to another person
- Any other terms that the Court considers necessary

Where a Court makes an order²⁸, the Court must specify that the professional counsellor shall:

- Give written notice to the Court of sessions missed by the applicant, the respondent or both parties without reasonable excuse
- 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

²⁸ The order in respect to the applicant respondent or other person receiving professional counselling or psychoeducation group therapy

Where a person²⁹ has refused or willfully neglected to comply with that direction, the person is liable to a penalty of ten thousand dollars (\$10,000).

The Court may grant a final protection order for a period not exceeding three (3) years.

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 not exceed three years and run concurrently.

3.4 Contravention of a protection order

3.4.1 Report of contravention

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

A police officer may, on receipt of this report, arrest the respondent for contravention of the protection officer

²⁹ Refers to the person who was supposed to be receiving therapy

3.4.2 Penalties for contravention of a protection order

A person against whom a protection order is made and who contravenes the protection order commits an offence and is liable on summary conviction:

- In the case of a first conviction to a fine not exceeding five thousand dollars (\$5000) or to imprisonment for a term not exceeding three (3) months, or both
- In the case of a second conviction to a fine not exceeding ten thousand dollars (\$10,000) or to imprisonment not exceeding twelve (12) months or to both
- In the case of a subsequent conviction to imprisonment for a term not exceeding five (5) years

3.4.3 Variation or revocation of protection orders

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.

The Court shall consider all matters necessary in determining whether to vary or revoke a protection order including the current circumstances of the

applicant and the respondent and the necessity of a protection order.

3.4.4 Service and grant of application for variation or revocation

The Director of Family Court shall cause a copy of this application to be served on each party to the proceedings in respect of the protection order.

On receipt of an application for variation or revocation the court may grant the application.

Where an application to vary or revoke a protection is granted

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

3.4.5 Protection order as evidence of a material fact in other proceedings

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

3.4.6 Protection of mortgage

A right conferred on a person in respect of any property by a protection order made under the Act³⁰ is subject to the rights of a person entitled to the benefit of any mortgage, security, charge or encumbrance affecting the property if

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

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

³⁰ Domestic Violence Act No. 11 of 2022

3.4.7 Property rights

The Act³¹ shall not be construed as altering the rights of a spouse in respect of ownership of any real, personal, movable or immovable property.

3.4.8 Appeals

A person aggrieved by a protection order of the Court or refusal of the Court to make a protection order may appeal to the High Court within twenty eight (28) days after the decision of the Court.

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

³¹ *ibid*

4. Conduct of Proceedings

4.1 Persons who may be present during the hearing of any proceedings under the Act

During a hearing of any proceedings the following persons **may be present**:

- Officer of the Court
- A party to the proceedings and his/her lawyer
- A witness – where the witness is a child, the Court shall consider the child's age and maturity as well as his/her ability to express his/her views
- Any other person permitted by the Magistrate to be present.

A witness shall leave the Court room if asked to do so by the Magistrate.

The Court can hear proceedings in camera or can exclude a person from the Court.

4.2 Standard of proof

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

4.3 Restriction on publication of report of proceedings

A person shall not publish a report of proceedings under the Act other than criminal proceedings, except with the leave of the Court³².

Where a person contravenes this restriction on publication of report of proceedings, she/he commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000) or a term not exceeding twelve (12) months.

This restriction does not limit

- any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings
- the power of the Court to punish for contempt of Court

³² Subject to Part IV 49(3) and (4) of the Domestic Violence Act No. 11 of 2022

This restriction does not apply to the publication of a report that:

- is of a bona fide professional or technical nature
- is intended for circulation among members of the legal and medical profession, public officers, police officers, psychologists, marriage counsellors or social workers.

5 Non-Legislative Measures to Complement the Act

5.1 Powers of the Minister

The Minister shall:

- Develop and implement effective, comprehensive and coordinated cross-government policies prescribing measures to prevent acts of domestic violence
- Ensure access to and provide services for the victim and other persons affected by acts of domestic violence
- Provide guidance to a public officer on the practices to be used when responding and providing services to a victim
- Ensure adequate budgetary resources are allocated annually for the effective implementation of the Domestic Violence Bill No. 11 of 2022.

Some of the services which should be provided to the victim and other persons include:

- Crisis intervention services
- Immediate transportation from the victim's residence to a medical center, shelter or other place

- Health care and social services adequately resourced and staffed with persons trained to assist victims
- Counselling for victims
- Psychoeducational group therapy for victims

5.2 Training of Criminal Justice and Health Authorities

The Commissioner of Police after consultation with the Director of Family Court, 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.

The Minister responsible for health, after consultation with the Director, shall make available and deliver education and training for healthcare and social service professionals on an annual basis with respect to procedures for assisting victims on commencing their role as a healthcare and social service professionals.

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

5.3 Non-Discrimination of Victims

A public officer or other person providing a service to a victim under the Domestic Violence Act No. 11 of 2022, shall not treat the victim in a discriminatory manner; that includes discrimination on the grounds of sex, gender, race, colour, language, religion, political opinion, nationality, social origin, birth, sexual orientation, gender identity, age, disability or marital, migrant, refugee or other status.

Appendix 1

Schedule 1: Information to victim and applicant regarding his/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.

Appendix 2

Forms

Form 1	Application of Protection Order
Form 2	Interim Protection Order
Form 3	Notice of Proceedings
Form 4	Affidavit for use in Providing Service of Process
Form 5	Final Protection Order
Form 6	Application for Variation or Revocation of interim/final Protection Order
Form 7	Variation/Revocation Order



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