

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

The Protection of Women from Domestic Violence Act 2005 came into force on October 26, 2006.

Object of the Act

The legislation aims at providing more effective protection of the rights of women guaranteed under the Constitution to those women who are victims of violence of any kind occurring within the family.

Applicability of the Act

Applicability of the Act extends to whole of India except the State of Jammu and Kashmir. But the implementation of this Act rests with the State governments and will be applicable in a State only after State government ratifies the same. *(Section 1)*

Coverage of the Act

The Act aims at, protecting the wife or female live-in partner from violence at the hands of the husband or male live-in partner or his relatives. The law also extends its protection to sisters, widows, mothers and child may it be adopted, step, foster or minor child. *(Section 2b & 2q)*

Aggrieved Person

"Aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. *(Section 2(a))*

Respondent

"Respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act. Also an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner. *(Section 2(q))*

Service Provider

Service provider means any entity in form of, voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance registered with the State Government as a service provider for the purposes of this Act. *(Section 2(r) & 10(1))*

Domestic Violence

‘**Domestic violence**’ not only includes actual abuse but also the threat of abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives are also covered within the meaning of domestic violence.

- **Physical Abuse** - Bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force.
- **Sexual Abuse** – Conduct that abuses, humiliates, degrades or otherwise violates the dignity of woman.
- **Verbal and Emotional Abuse** - Insults, ridicule, humiliation and repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
- **Economic abuse** - Deprivation of all or any economic or financial resources to or prohibition or restriction to continued access to resources or facilities to aggrieved person or her children or disposal of her stridhan or any other property jointly or separately held by the aggrieved person. *(Section 3)*

Informant Free From Liability

According to the Act where any person has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed and he in good faith informs regarding the same to the concerned Protection Officer he will not incur any civil or criminal liability. *(Section 4)*

Rights of Aggrieved Person

Where a police officer, Protection Officer, Service Provider or Magistrate receives a complaint or where any such incident is reported to him or is present at the place of an incident of domestic violence he shall inform the aggrieved person regarding her right to make an application for obtaining a relief by way of a protection order, monetary relief, custody order, residence order or an order for compensation or damages.

Aggrieved person also should be informed regarding the availability of services of service providers, Protection Officers and free legal services. *(Section 5)*

Cognizable Offence

Where any incident of domestic violence is reported to the police officer it is his duty to register the case as commission of a cognizable offence.

A complaint can also be filed under Section 498A of the Indian Penal Code (45 of 1860) in case of physical or mental torture to wife by husband or his relatives. *(Section 5e)*

Shelter Homes & Medical Facilities

On request by an aggrieved person or a protection officer or service provider on her behalf to the person in charge of the shelter home or medical facility they shall provide shelter in the shelter home and/or any medical aid to the aggrieved person. *(Section 6 & 7)*

Time Limit

The Act prescribes that the Magistrate shall fix the first date of hearing within 3 days from the date of receipt of the application by the court. It also prescribes the time limit for finally deciding a case within 60 days from the date of its first hearing. *(Section 12(4),(5))*

Proceedings in Camera

If the circumstances of the case are such or where either party to the proceedings so desires, the magistrate may conduct the proceedings under this Act in camera. *(Section 16)*

Right to Shared Housing

The Act provides for the woman's right to reside in the matrimonial or shared household, whether or not she has any title, rights or beneficial interest in the same. *(Section 17)*

Protection Order

The magistrate may after hearing both the parties pass order preventing the abuser from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with the aggrieved person, alienating any assets used jointly or separately by both the parties including stridhan and causing violence to the aggrieved person, her relatives and others who provide her assistance from the domestic violence. Such an order shall remain in force till the aggrieved person applies for discharge. *(Section 18 & 25)*

Residence Order

On being satisfied that domestic violence has taken place the magistrate may, pass a residence order restraining the respondent or any of his relatives from dispossessing, alienating, encumbering or disturbing the possession of the aggrieved person or from entering any portion of the shared household or directing the respondent to remove himself from the shared household.

He may also direct the respondent (should not be a woman) to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same. *(Section 19)*

Monetary Reliefs and Compensation

The Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred, maintenance and losses suffered by the aggrieved person and her child as a result of the domestic violence. Such relief should be consistent with the standard of living to which the aggrieved person is accustomed. Also compensation and damages may be awarded for the injuries, mental torture and emotional distress, due to domestic violence committed by that respondent. *(Section 20 & 22)*

Custody Orders

The Magistrate may grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf. *(Section 21)*

Copies of order to be given free of cost

In all cases where any order under this Act has been passed, court shall give a copy of such order free of cost, to the parties to the application, the concerned police officer and service provider. *(Section 24)*

Offences and Penalty

The Act provides for breach of protection order or interim protection order by the respondent is a cognizable and non-bailable offence punishable with imprisonment for a term which may extend to 1 year or with fine which may extend to Rs. 20000 or with both.

Similarly, failure or refusal to discharge the duties by the Protection Officer is also offence under the Act with similar punishment. *(Section 31, 32 & 33)*