

English Version of the Domestic Violence (Prevention and Protection) Act, 2010

Government of the Peoples Republic of Bangladesh
Ministry of Women and Children Affairs

Notification

SRO No. .- The power vested upon the government according to the section 37 of the Domestic Violence (Prevention and Protection) Act, 2010 (Act 58 of 2010), the government hereby published the following act:-

English Version of the Domestic Violence (Prevention and Protection) Act, 2010 [Act 58 of 2010]

An Act to provide as a signatory state of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979 and the Convention on the Children's Right, 1989 and to establish equal rights for women and children guaranteed in the Constitution of the People's Republic of Bangladesh prevention of domestic violence, protection of women and children from domestic violence and for matters connected therewith or incidental thereto.

WHEREAS it is expedient and necessary as a signatory state of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979 and Convention on the Children's Right, 1989 and to establish equal rights for women and children guaranteed in the Constitution of the People's Republic of Bangladesh prevention of domestic violence, protection of women and children from domestic violence and for matters connected therewith or incidental thereto:-

THEREFORE it is hereby enacted as follows:-

Chapter-One Introduction

1. Short title, extent and commencement.- (1) This Act may be called the Domestic Violence (Prevention and Protection) Act, 2010.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context -

- (1) **"Application"** means a petition submitted to the court for any sort of remedy under this Act either by a victim or any other person on behalf of a victim;
- (2) **"Code"** means The Code of Criminal Procedure, 1898 (Act V of 1898);

- (3) **"Compensation order"** means an order given under section 16 of this Act;
- (4) **"Child"** means a person below the age of eighteen years;
- (5) **"Custody order"** means an order granted under section 17 of this Act;
- (6) **"Domestic violence"** means any act as defined in section 3 of this Act;
- (7) **"Enforcement Officer"** means the Upazila Women Affairs officer under the control of the Department of Women Affairs or any officer appointed by the government on this behalf under section 5;
- (8) **"Family"** comprises of those persons who live or have, at any point of time, lived together in a shared residence, when they are related by consanguinity or marriage or adoption or member of joint family;
- (9) **"Family relationship"** means a relationship between two persons who are related by consanguinity or marriage or adoption or member of joint family;
- (10) **"Interim Protection order"** means an order passed under section 13 of this Act;
- (11) **"Protection order"** means an order given under section 14 of this Act;
- (12) **"Residence order"** means an order granted under section 15 of this Act;
- (13) **"Respondent"** means any person, against whom any sort of remedy under this Act has been sought for;
- (14) **"Rules"** means rules framed under this Act;
- (15) **"Safe place"** means any home or institution maintained or managed by any person or agency or organization approved by the government or which is considered as safe place for victim by the court;
- (16) **"Shared residence"** means a residence where-
 - (a) the victim lives;
 - (b) at any stage has lived singly or along with the respondent in a family relationship;
 - (c) which owned or tenanted either jointly by the victim and the respondent, or owned or tenanted by either of them;
 - (d) which either the victim or the respondent or both jointly or singly have any right, title, interest or equity;
 - (e) which may belong to the family of which the respondent is or was a member, irrespective of whether the respondent or the victim has any right, title or interest;
- (17) **"Shelter home"** means any home or institution with residential facilities maintained or managed by the government or by private organization, where victim can stay safely on temporary basis;
- (18) **"Victim"** means a child or woman who is or has been or is at risk of being subjected to domestic violence by any other member of the family to whom a family relationship exists;
- (19) **"Women"** means any woman irrespective of age.

Chapter-Two Domestic Violence

3. Domestic violence.- For the purpose of this Act, domestic violence means physical abuse, psychological abuse, sexual abuse or economic abuse against a woman or a child of a family by any other person of that family with whom victim is, or has been, in family relationship.

Explanation: For the purpose of this section-

(a) "**Physical abuse**"- that is, any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the victim and includes assault, criminal intimidation and criminal force;

(b) "**Psychological abuse**"- that includes but is not limited to:-

- (i) verbal abuse including insults, ridicule, humiliation, insults or threats of any nature;
- (ii) harassment; or
- (iii) controlling behaviour, such as restrictions on mobility, communication or self-expression;

(c) "**Sexual abuse**"- that is, any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the victim;

(d) "**Economic abuse**" that includes but is not limited to:-

- (i) deprivation of all or any economic or financial resources or property to which the victim is entitled under any law or custom whether payable under any law or custom or an order of a court or any other competent authority;
- (ii) not allow to use the articles of daily necessities to the victim;
- (iii) deprivation or prohibiting the victim from applying legal rights to her stridhan or dower or alimony or any consideration for marriage or any property owned by the victim;
- (iv) transferring without consent of the victim or prohibiting the victim from applying legal rights to any assets whether movable or immovable owned by her;
- (v) deprivation or prohibiting the victim from applying legal rights to continued access to resources or facilities which the victim is entitled to use or enjoy by virtue of the family relationship.

Chapter-Three
Duties and Responsibilities of Police Officer, Enforcement Officer and Service Provider, etc.

4. Duties and responsibilities of Police Officer.- A Police Officer, who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him or her, shall inform the victim-

- (a) of her right to make an application for obtaining a relief by way of any orders under this Act;
- (b) of the availability of medical services;
- (c) of the availability of services of the Enforcement Officers;
- (d) where applicable, of her right to free legal services under the Legal Aid Act, 2000 (Act 6 of 2000);
- (e) of her right to file a complaint under any other existing law; and
- (f) other duties and responsibilities prescribed by the government in this behalf.

5. Appointment of Enforcement Officer.- (1) For the purpose of this Act, the Government shall, by notification in the official gazette, appoint one or more Enforcement Officers in each upazila, thana, district or in a metropolitan area and shall also notify the area or areas within which an Enforcement Officer shall exercise the powers and functions conferred on him or her by or under this Act.

(2) The terms and conditions of service of the Enforcement Officer shall be such as may be prescribed rule.

6. Duties and responsibilities of Enforcement Officer.- (1) The Duties and Responsibilities of Enforcement Officer shall be as follows:-

- (a) to assist the court in discharge of its functions under this Act;
- (b) to provide report to the court regarding domestic violence;
- (c) to forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction the domestic violence is alleged to have been committed;
- (d) to make an application to the Court, if the victim so desires, claiming relief for issuance of a protection order;
- (e) to take necessary steps so that the victim is provided legal aid under the Legal Aid Act 2000 (Act 6 of 2000), and make available the application form along with other facilities free of cost;
- (f) to maintain a list of all legal aid and human rights organization or psycho-social counseling services, shelter homes and medical facilities within the jurisdiction of the Court;
- (g) to refer the victim to a safe shelter home if the victim so requires and forward a copy of a report of having lodged the victim in a shelter home to the police station and the Court having jurisdiction in the area where the shelter home is situated;

(h) to refer the victim for medical examination if required and forward a copy of the medical report to the police station and the Court having jurisdiction in the area where the domestic violence is alleged to have taken place;

(i) to ensure that the order for compensation is executed; and

(j) to perform such other duties as may be prescribed by rules.

(2) The Enforcement Officer shall be under the supervision of the Court, and shall perform the duties and responsibilities imposed on him/her by the Government or by the Court under this Act.

7. Service provider and their duties and responsibilities.- (1) Subject to the provisions of this Act and rules framed under it, any voluntary association registered under the Societies Registration Act, 1860 (Act XXI of 1860), or the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961(Ordinance XLVI of 1961) or a non-profit company or organization registered under the Companies Act, 1994 (Act 18 of 1994), or any non- profit organization or institution registered at NGO Affairs Bureau under Foreign Donations (Voluntary Activities) Regulation Ordinance,1978 (Ordinance XLVI of 1978),any other organization approved by the Government under any other law for the time being in force with the objective of *inter alia* protecting the human rights especially the rights and interests of women and children by any lawful means including providing of legal aid, medical, financial or other assistance shall be treated as a service provider for the purposes of this Act.

(2) Duties and responsibilities of a service provider shall be as follows:-

(a) record the domestic incident report in the prescribed form if the victim so desires and forward a copy thereof to the Court and the Enforcement Officer having jurisdiction in the area where the domestic violence took place;

(b) refer the victim for medical examination and forward a copy of the medical report to the Enforcement Officer and the police station within the local limits of which the domestic violence took place;

(c) refer the victim to a shelter home, if she so requires and forward a report of the lodging of the victim in the shelter home to the police station within the local limits of which the domestic violence took place.

(d) perform such other duties and responsibilities as may be prescribed by rules.

8. Duties of shelter homes.- On request by a victim or on her behalf, a police officer, an Enforcement Officer or any other person, the authority responsible for a shelter home shall provide shelter to the victim therein.

9. Duties of medical service provider.- On request by a victim or on her behalf, a police officer, an Enforcement Officer, a service provider or any other person, the person in-charge of the medical facility in the hospital, clinic or medical centre shall provide medical aid to the victim.

Chapter-Four
Rights of Victim, Remedies, etc.

10. Right to reside in the shared home.- The victim shall have every right to reside in the shared residence due to family relationship.

11. Application to Court.- (1) A victim or on her behalf, a police officer, an Enforcement Officer, a service provider or any other person, can apply to get remedy according to the provisions of this Act.

(2) Every application under sub-section (1) shall be submitted in such form as may be prescribed by the rule.

(3) The Court, shall fix up the date of hearing the victim within 7(seven) working days after receiving the application under sub-section (1).

12. Place of filing application.- A petition under this Act may be filed in any court under whose local jurisdiction the following places are situated-

- (a) the applicant resides;
- (b) the respondent resides;
- (c) the place where the domestic violence occur; or
- (d) the place where the victim temporarily resides.

13. Interim protection order and issuance of notice.- (1) The Court, upon receipt of an application under section 11, if satisfied by examining the documents submitted thereto that there is *prima facie* that the respondent has committed or possibility of committing or abetting to commit domestic violence, then an *ex parte* interim protection order may be issued against the respondent and simultaneously a show cause notice to the respondent to reply within 7(seven) working days why permanent protection order shall not be issued against him.

(2) The notice may be issued by registered post, process server, law enforcing agencies or by any other ways prescribed by the rules.

14. Protection order.- The Court may, after giving the parties an opportunity of being heard, satisfied that domestic violence has taken place or is likely to take place, issue a protection order in favour of the victim and issue order restraining the respondent from committing following acts, namely:-

- (a) from committing any act of domestic violence;
- (b) aiding or abetting in the commission of any acts of domestic violence;
- (c) prohibiting or restraining from entering any protected person's place of employment, business, or educational institution or other institution which the protected person ordinarily visits;
- (d) prohibiting or restraining from making any personal, written, telephone, mobile phone, email or any other form of communication with the protected person;

- (e) prohibiting from causing violence to the dependants of the victim or any relatives or any person who gives assistance to the victim from domestic violence;
- (f) any other act that may be cited in the protection order.

15. Residence orders.- (1) The court, on the basis of application may issue the following residence orders, namely:-

(a) restraining the respondent from residing or visiting the shared residence or specified part thereof where the victim resides;

(b) restraining the respondent from dispossessing or in any other manner disturbing the possession of the victim from the shared household;

(c) directing the Enforcement Officer to make arrangement for a safe shelter or safe place for the victim and her child/children, if the victim so consents to her placement in such alternative arrangement, during the existence of the protection order and if the continuous stay of the protected person at the shared residence is considered by the Court to be not safe for the protected person;

(d) directing the respondent to secure the same level of alternate accommodation for the victim as enjoyed by her in the shared residence or to pay rent for the same, if the circumstances so require;

(e) requiring the respondent against whom the order is made to permit any protected person, accompanied by the Enforcement Officer, to enter the offender's residence, shared or not, for the purpose of collecting the protected person's personal belongings including her medical, educational and professional records, documents and certificates, passport, bank account documents, savings certificate and other investment papers and documents, personal income tax documents, jewelry, cash money, mobile phone, household goods and valuables of any description;

(f) order against the respondent to permit any protected person to have the continued use and expenses of a vehicle which has previously been ordinarily used by the protected person.

(2) If a right to exclusive occupation of a shared residence or any part thereof is granted to the protected person, such order shall not affect any title or interest that the respondent against whom the order is made;

(3) The Court, shall make an order evicting the person against whom the order is made from the whole of a shared residence that is solely owned by him or her, if it is satisfied that there is no other way to secure the personal safety of the protected person for the time being:

Provided that such order shall be revoked, if-

(a) a suitable safe shelter or safe place or alternative residence is found for the protected person; or

(b) the Court being otherwise satisfied that it is no longer necessary to continue the order for securing the personal safety of the protected person.

(4) The Court may impose any additional conditions or pass any other direction which it may deem reasonably necessary or incidental to protect or to provide for the safety of the victim or her child/children or any member of her family.

(5) The Court may require the respondent to execute a bond, with or without sureties, that neither he/she nor any of his/her family members will commit any further acts of domestic violence.

(6) While passing an order under sub-section (1), sub-section (2) or sub-section (3) the Court may also pass a written order directing the officer in charge of the nearest police station to give protection to the victim or her child/children.

(7) The Court may direct the respondent to return to the possession of the victim any immovable property, her stridhan or dower or alimony or any other marital property and moveable assets, valuables, documents, certificates and any other property or valuable security to which she is entitled.

16. Compensation order.- (1) If there is any personal injury or financial loss or trauma or psychological damage or damage to movable or immovable property or any possibility of such damage or loss as a result of domestic violence, she may file a claim for compensation either along with the application under section 11 or separately later on.

(2) The Court shall disposed of the application submitted under sub-section (1) within 6(six) months of it's receive.

(3) The Court, in the process of disposal of the application submitted under sub-section (1), after giving the parties opportunity of being heard, subject to the provisions of sub-section (4), award such monetary compensation as it deems reasonable.

(4) Before disposal of the application submitted under sub-section (1), the Court may give responsibility on a person or any organization to find out the actual loss or damage and during the hearing of the claim for such compensation may take into consideration the following facts:

(a) the pain and suffering of the victim and the nature and extent of the physical or mental injury suffered;

(b) the cost of medical treatment for such injury;

(c) temporary or permanent effect of such injury;

(d) any loss of earnings, present and prospective, arising there from;

(e) the amount and value of the movable or immovable property taken or transferred or destroyed or damaged;

(f) reasonable expenses already incurred by or on behalf of the victim in securing protection from violence.

(5) The Court may pass an order against the respondent for the maintenance of the victim as well as her children, if any, which is adequate, reasonable and consistent with the standard of living of the victim.

(6) The Court may an order of lump sum payment or monthly payments of maintenance, if it deems fit.

(7) The Court shall send a copy of the compensation order made under this section to the concern parties and to the Officer in Charge of the police station within the local limits of whose jurisdiction the respondent ordinarily resides or stay.

(8) If the respondent is an employee of government, non-government, semi-government or an autonomous organization, then a copy of the compensation order shall be sent to the higher authority of the respondent.

(9) If the respondent fails to pay the compensation according to the order made under sub-section (3), the Court may direct the employer or a debtor of the respondent, to directly pay to the victim or to deposit in her bank account a portion of the wages or salaries or debt due to or accrued to the credit of the respondent.

(10) The compensation imposed under this section may be realized according to the provisions of the Public Demands Recovery Act, 1913(Bengal Act III of 1913).

17. Custody orders.- Notwithstanding anything contained in any other law for the time being in force, the Court may, at any stage of hearing of the application for a protection order or for any other relief under this Act grant order for temporary custody of any child or children of the victim to the victim or to any applicant in favour of the victim and if necessary, the arrangements for any visit to such child or children by the respondent.

18. Court to give copies of order free of cost.- The Court shall, in all cases where it has passed any order under this Act, order that a copy of such order shall be given free of cost to the parties to the application, the officer in-charge of the concern police station, the Enforcement Officer and if applicable, any service provider.

19. Duration and alteration of orders.- (1) A protection order made under the section 14 shall be in force till the application for discharge submitted by the victim and accepted the same by the Court.

(2) If the Court, on receipt of an application from the victim or the respondent, is satisfied that there is a change in circumstances requiring alteration, modification, amendment or revocation of any order made under this Act, it may, for reasons to be recorded in writing pass such order, as it deems appropriate.

Chapter-Five

Disposal of Application, Trial, Appeal, etc.

20. Disposal of cases.- (1) The Court shall, dispose of every application made under this Act within a period of 60 (sixty) working days from the date of issuance of notice.

(2) Where the concerned Court fails to dispose of the application within the stipulated time under sub-section (1) on unavoidable reasons, reasons to be recorded in writing it shall disposed of the case within another 15(fifteen) working days and shall inform the matter in writing to the appellate court.

(3) Where the concerned Court again fails to dispose of the case within the extended time under sub-section (2), reasons to be recorded in writing it shall disposed of the case within another 7(seven) working days and shall inform the matter of such time extension in writing to the appellate court.

(4) Where the concerned Court again fails to dispose of the case within the extended time under sub-section (3), it shall dispose of the case as soon as possible and shall send a written report in every 7(seven) days to the appellate court, but the appellate court either by the application of any party or its own motion may transfer the case to any other appropriate court.

(5)When any case is transferred under sub-section (4), it shall be disposed of on priority basis and action shall be taken from the stage where it was pending, as if it was pending in this court on that stage and it was never transferred.

21. Trial.- (1) Notwithstanding anything contained in the Code of Criminal Procedure or in any other law for the time being in force, any application or trial of an offence or any proceeding under this Act shall be tried of by a First Class Magistrate or where applicable, by a Metropolitan Magistrate.

(2) In granting the compensation order the Judicial Magistrate or Metropolitan Magistrate shall have no pecuniary jurisdiction.

22. Procedure of trial. - (1) Save as otherwise provided in this Act, for disposal of any application or trial of an offence or any proceeding under this Act the provisions of the Code of Criminal Procedure shall be applicable.

(2) For disposal of any application or trial of an offence or any proceeding under this Act the provisions of summary trial laid down in chapter XXII of the Code of Criminal Procedure shall be applicable.

23. Proceedings to be held in camera.- The Court, either on the consent of the concern parties or its own motion deem necessary, it may conduct the proceedings under this Act *in camera*.

24. Local inquiry.- In the process of disposal of any application or proceeding the court may direct, after due notice to the parties, to make local inquiry to ascertain the truth of the incidence and such inquiry shall be completed within the stipulated time given by the court.

25. Service of order.- (1) Any order issued by the court under this Act shall be served to the parties according to the procedure laid down in the Code of Criminal Procedure.

(2) Any order issued by the court under this Act shall be served by the process server of the court or by the police officer or by the Enforcement Officer:

Provided that the warrant of arrest shall be served by the police officer.

(3) The process server or the police officer or the Enforcement Officer shall serve the copy of the order within 3(three) working days and submit the service return to the court along with a certificate that such order was duly served.

(4) If necessary, in addition to the above methods order or notice may be served by registered post or by courier service or by any other ways prescribed by the rules, and for these additional ways the cost of service shall be borne by the applicant.

26. Trial in absentia of the respondent.- (1) Where the notice for appearance of the respondent was served properly and the respondent does not appear before the court or after appearing once remains absent at the subsequent date, the court recording its decision so to do, try the case in absence of the respondent and disposed of the case *ex parte*.

(2) Where the notice for appearance of the respondent was served properly and the respondent does not appear before the court or after appearing once remains absent at the subsequent date, the court may, issue warrant of arrest against the respondent.

27. Rejection of complaint.- When any complaint is being rejected by a court due to the absence of the complainant, the court by whom the complaint was rejected, on the basis of application made by the complainant and also on satisfactory ground, may revive the case from the stage where it was rejected:

Provided that the application must be submitted within 30 (thirty) working days of rejection and such application must not be submitted more than once.

28. Appeal.- (1) Notwithstanding anything contained in the Code of Criminal Procedure or any other law for the time being in force, for the purpose of this Act the Chief Judicial Magistrate or where applicable, the Chief Metropolitan Magistrate court shall be deemed the appellate court.

(2) The appeal against any order under this Act shall be filed by any aggrieved party within 30 (thirty) working days from the date of passing of the order to the Chief Judicial Magistrate or where applicable, to the Chief Metropolitan Magistrate court.

(3) The appeal shall be disposed of within 60 (sixty) working days from its filing and it must not be transferred more than once without any valid reason.

Chapter-Six **Offence, Punishment, etc.**

29. Cognizance, bailability and compoundability.- The offence committed under this Act shall be cognizable, bailable and compoundable.

30. Penalty for breach of protection order.- A breach of protection order by the respondent shall be an offence under this Act and shall be punishable with imprisonment which may extend to 6(six) months, or with fine which may extend to 10(ten) thousand Taka, or with both and repetition of any offence shall be punishable with imprisonment which may extend to 2(two) years, or with fine which may extend to 1(one) lakh Taka, or with both.

31. Community welfare service.- (1) The Court, if it deems fit, instead of passing an order of sentence against the respondent under section 30, may pass an order to perform

various community welfare services by the respondent and responsibility may be vested upon any institution or organization to supervise such services.

(2) From the income gained by the respondent due to the community welfare services under sub-section (1), the Court may pass an order to pay such portion of the income to the victim and where applicable, to her child/children or any dependants as it deems appropriate.

(3) For the purpose of the sub-section (1) and (2) rules may be framed.

32. Punishment for false complaint.- If any person with the motive of causing loss to any other person knowing that there is no cause of complaint under this Act, nevertheless makes a complaint, shall be punishable with imprisonment which may extend to 1(one) year, or with fine which may extend to 50(fifty) thousand Taka, or with both.

Chapter-Seven Miscellaneous

33. Public Servants.- The Enforcement Officers, while acting or purporting to act in pursuance of any of the provisions of this Act shall be deemed to the public servants within the meaning of section 21 of the Penal Code,1860.

34. Accountability of Enforcement Officer.- If any Enforcement Officer fails or refuses to discharge his or her duties as directed by the Court without any sufficient reason, he or she shall be liable for departmental proceeding.

35. Act not in derogation of any other law.- The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

36. Power to make rules. - The Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

37. Authentic English text.- The Government may, by notification in the Official Gazette, published an authentic text of the original Bengali Act in English:

Provided that in the event of conflict between the Bengali and the English text, the Bengali text shall prevail.