

LEGISLATIVE COUNCIL BRIEF

Domestic Violence Ordinance
(Chapter 189)

DOMESTIC VIOLENCE (AMENDMENT) BILL 2009

INTRODUCTION

A At the meeting of the Executive Council on 26 May 2009, the Council ADVISED and the Chief Executive ORDERED that the Domestic Violence (Amendment) Bill 2009 (“the Bill”), at **Annex A**, should be introduced into the Legislative Council (LegCo).

JUSTIFICATIONS

2. The Domestic Violence Ordinance (DVO), enacted in 1986, provides civil remedies in the form of injunctions to protect persons in spousal relationships and in heterosexual cohabitation relationships and their children against molestation by the other party to such a relationship. The DVO has since its enactment excluded from its coverage cohabitation between persons of the same sex.

3. In extending the scope of the DVO through the Domestic Violence (Amendment) Bill 2007 (the 2007 Bill) to cover, inter alia, former spouses and former heterosexual cohabitants, the Administration had not proposed to include same-sex cohabitants in its coverage. Our considerations then were:

- (a) in Hong Kong, a marriage contracted under the Marriage Ordinance (Cap. 181) is, in law, the voluntary union for life of one man and one woman to the exclusion of all others. Our law, which reflects the Administration's policy stance, does not recognise same-sex marriage, civil partnership or any same-sex relationship. Recognising same-sex relationship is an issue concerning ethics and morality of society. Any change to this policy stance would have substantial implications on society;
- (b) any acts of violence are liable to criminal sanctions under the relevant ordinances, irrespective of the relationship between the abuser and the victim. Persons in same-sex cohabitation relationship are afforded the same level of protection as those in heterosexual cohabitation relationship under our existing criminal legislative framework, which comprises the Offences Against the Person Ordinance (Cap. 212) and the Crimes Ordinance (Cap. 200) ; and
- (c) persons who fall outside the scope of the DVO may continue to seek protection under the law of tort or inherent jurisdiction of the court.

4. During scrutiny of the 2007 Bill by LegCo, Members from various political parties urged the Administration to re-examine the feasibility of further extending the scope of the DVO from covering heterosexual cohabitants to also same-sex cohabitants. They were of the view that extending the protection under the DVO to include same-sex cohabitants merely sought to protect such persons from being molested by their partners, and should not be regarded as equivalent to giving legal recognition to same-sex relationships or providing legal entitlements to persons in such relationships. At the Bills Committee meeting held on 28 September 2007, the majority of the deputations attending the meeting also expressed strong support that the scope of the DVO should be extended to cover same-sex cohabitants.

5. Having regard to the views expressed by Members and the community's concern about the acts of violence between same-sex cohabitants, the Administration had very carefully re-examined the matter. Noting that violent incidents could quickly escalate into life-threatening situations or even fatality, the Administration agreed that, while upholding its policy stance of not recognising any same-sex relationship as a matter

of legal status, we could give exceptional consideration to extending the scope of the DVO from heterosexual cohabitants to also persons in same-sex cohabitation relationship.

6. Not only did the Bills Committee Members from various political parties unanimously support the above proposal, they also urged the Administration to pledge to introduce the legislative amendments into LegCo as soon as practicable. Accordingly, in moving the resumption of Second Reading Debate on the 2007 Bill on 18 June 2008, the Secretary for Labour and Welfare, in response to Members' request, undertook to introduce a bill as soon as possible in the 2008-09 legislative session to further amend the DVO to extend its scope from covering heterosexual cohabitants to same-sex cohabitants.

Consultation with LegCo in the Current Term of LegCo

7. Following our legislative timetable, we consulted the LegCo Panel on Welfare Services (the Panel) on our legislative proposal on 8 December 2008. Despite the clear consensus reached by Members of the last LegCo term in support of our proposed amendments, a number of Members of the current LegCo term took a diametrically opposite view. As a result, the Panel decided to convene two special meetings on 10 and 23 January 2009 respectively to widely invite deputations to voice their views on the proposal. Nearly 100 deputations and 45 individuals attended. Of these, about two-thirds, mostly from religious and parent groups, objected strongly to our proposal which, in their view, would cause ambiguity in the interpretation of "family" and "marriage", and hence undermine the morality of society. On the other hand, those in support, mainly from human rights groups, sexual minority groups, women's groups and the welfare sector, argued that same-sex cohabitants should be entitled to the same legal protection as heterosexual cohabitants under the DVO.

Main Concerns of the Religious and Parent Groups and their Counter-proposals

8. The main concerns of the religious and parent groups lie in the implications that they perceive our legislative proposal would have on "marriage" and "family". They consider that by virtue of the Chinese

title of the DVO, i.e. “家庭暴力條例”, it is clear that the Ordinance caters for “family” violence as in “家庭”暴力. They contend that “family” is constituted from marriage between a man and a woman, and the proposed amendment to the DVO would distort this sacred concept by suggesting that family could comprise same-sex cohabitants. They argue that if the DVO is amended as proposed, it could lead to successful legal challenges by those pushing for the recognition of same-sex marriages under the Marriage Ordinance.

9. The counter-proposals they advanced seek to avoid any overt linkages between same-sex cohabitation and “marriage”, “spouse” and “husband and wife” in the DVO, which include:

- (a) changing the Chinese title of the DVO to read “家居暴力條例” or “居所暴力條例” to feature all acts of molestation that occur in a domestic setting and sever any linkage between same-sex cohabitation and “marriage”;
- (b) enacting a separate legislation to deal with same-sex cohabitants and leaving the DVO intact; and
- (c) extending the DVO to cover all persons living under the same roof, irrespective of whether they are in specific relationships.

The Administration’s Proposed Legislative Amendments

10. We have given careful and thorough consideration to the views of different quarters of our community on our legislative proposal. To address the concerns of the religious and parent groups while achieving, at the same time, our policy objective of rendering the same level of protection against molestation to both heterosexual and same-sex cohabitants, we propose to introduce an amendment bill to extend the scope of DVO to cover same-sex cohabitants in the manner detailed in paragraphs 11 to 14 below.

Definition of “Cohabitation Relationship”

11. We note the concern that the definition should not have the effect of equating, or linking in any way, same-sex cohabitation with “marriage”, “spouse” or “husband and wife”. To mitigate such concern, we propose

to introduce a definition of “cohabitation relationship” under the DVO which is devoid of any references to “marriage”, “spouse” or “husband and wife”. Accordingly, we propose to define “cohabitation relationship” under the DVO to mean a “relationship between two persons who live together as a couple in an intimate relationship” and include such a relationship that has come to an end.

12. Further provisions will also be included in the Bill directing the court to have regard to all the circumstances of the case, including but not limited to a number of factors set out in the Ordinance¹, in determining whether a relationship in question has the quality that is required of a cohabitation relationship to which the DVO is applicable.

Clearly Delineating Different Categories of Protected Persons under the DVO

13. To further allay the concern over the treatment of cohabitation relationship (whether heterosexual or homosexual) as equivalent to marriage, we propose to make some structural changes to the DVO to clearly delineate different categories of protected persons that are under its coverage, as follows:

- (a) remove heterosexual cohabitants from the coverage of the current Section 3, so that the section will deal exclusively with applications for injunction orders by spouses, former spouses and their children;
- (b) leave the current Section 3A intact to deal with applications from persons in immediate or extended familial relationships; and
- (c) introduce a new Section 3B to deal exclusively with applications from cohabitants in intimate relationships, whether of the same sex or opposite sex, and their children.

¹ Factors included in the new Section 3B(2) of the Bill are : (a) whether the parties are living together in the same household; (b) whether the parties share the tasks and duties of their daily lives; (c) whether there is stability and permanence in the relationship; (d) the arrangement of sharing of expenses or financial support, and the degree of financial dependence or interdependence, between the parties; (e) whether there is a sexual relationship between the parties; (f) whether the parties have any children and how they act towards each other's children; (g) the motives of the parties in living together; and (h) whether such a relationship exists between the parties in the opinion of a reasonable person with normal perceptions.

Amending the Short Title of the DVO

14. We propose that the bilingual short title of the DVO be revised to read as “Domestic and Cohabitation Relationships Violence Ordinance” and “家庭及同居關係暴力條例” to highlight that the amended DVO is also applicable to persons in cohabitation relationships. This will further address the perceived concern over the Chinese title of the Ordinance.

15. On the suggestion of enacting a separate legislation to provide protection against molestation for same-sex cohabitants, we see no policy justification to do so. It is also not in line with the established practice adopted in Hong Kong laws whereby legal provisions addressing the same or similar policy issue are usually tackled in the same piece of legislation. Moreover, comparing to enacting a new legislation, it would be more expedient to amend the DVO, thus enabling us to provide early protection to same-sex cohabitants

THE BILL

16. The Bill at **Annex A** is prepared in accordance with the above proposals. The provisions of the Bill are:

- (a) **Clause 3** amends the long title to the DVO to align it with the amendment of the short title to the Ordinance, and the presentational changes made to the structure of the Ordinance;
- (b) **Clause 4** amends the short title to the DVO to reflect the presentational changes made to the structure of the Ordinance;
- (c) **Clause 5** –
 - (i) amends Section 2(1) of the DVO to add new definitions of “cohabitation relationship” and “party to a cohabitation relationship”. As defined, two persons are in a “cohabitation relationship” if they live together as a couple in an intimate relationship. The term is also defined to include such a relationship that has come to an end. Further provisions are included in the new Section 3B(2) directing the court to have regard to all the circumstances of the case in determining whether

a relationship has the quality that is required of a “cohabitation relationship” to which the DVO is applicable. The new definition of “party to a cohabitation relationship” ensures that application for an injunction made by a person under the DVO against that person’s spouse or former spouse does not fall within the new Section 3B, which applies to cohabitation relationships exclusively;

- (ii) amends Section 2(1) of the DVO to include the definition of “specified minor” (which is an existing definition set out in Section 3(3) of the DVO) so that the definition applies to both Section 3 and the new Section 3B of the Ordinance;
 - (iii) repeals Section 2(2) of the DVO. In consequence of the repeal, Section 3 of the DVO no longer applies to any cohabitation relationship; and
 - (iv) amends the cross reference to section numbers referred to in the definition of “respondent” in Section 2 of the DVO.
- (d) **Clause 6** repeals Section 3(3) of the DVO as the definition of “specified minor” will be provided for in the amended Section 2(1) of the DVO;
- (e) **Clause 7** adds a new Section 3B to enable a party to a cohabitation relationship (including such a relationship that has come to an end) to apply for an injunction against the other party to that relationship. The injunction protection is also extended to a specified minor against molestation under this Clause. In determining whether a relationship in question amounts to a cohabitation relationship for the application of the DVO, the court shall have regard to all the circumstances of the relationship including but not limited to the factors listed in subsection (2) of this newly added section;
- (f) **Clauses 8 and 9** amend the cross references to section numbers referred to in Sections 4 and 5(1) of the DVO;
- (g) **Clause 10** amends Section 6(1) of the DVO in respect of the

cross references to section numbers referred to in that section, and Section 6(3) in view of the repeal of Section 2(2) of the DVO;

- (h) **Clauses 11, 12 and 13** amend the cross references to section numbers referred to in Sections 7(1)(a), 7A(1)(a) and 10 of the DVO;
- (i) **Clauses 14 and 15** amend the Domestic Violence Rules (Cap. 189, sub. leg. A) to reflect the change of the short title to the DVO;
- (j) **Clause 16** is a saving provision; and
- (k) **Clauses 17, 18 and 19** effect consequential amendments to other Ordinances.

The existing provisions of the DVO and relevant ordinances being amended are at **Annex B**.

B

LEGISLATIVE TIMETABLE

17. The legislative timetable is as follows:

Publication in the Gazette	5 June 2009
First Reading and commencement of Second Reading Debate	17 June 2009
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

18. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal has economic, financial and civil service implications as set out in **Annex C**. The proposal has no productivity, environmental or sustainability implications.

C

19. The Bill will not affect the current binding effect of the DVO and the subsidiary legislation made under the DVO.

PUBLIC CONSULTATION

20. We consulted the Panel on 8 December 2008. We also attended the two special Panel meetings held on 10 and 23 January 2009, when nearly 100 deputations and 45 individuals gave views on our legislative proposal. The Administration has separately received over 1,100 submissions from different organisations and individuals of the public expressing their views on the proposed amendments.

PUBLICITY

21. A press release will be issued on 3 June 2009. A spokesman will be made available to answer media enquiries.

BACKGROUND

The Current Legislative Framework

22. The current legislative framework for tackling domestic violence comprises criminal sanctions against acts of violence and civil remedies for victims of domestic violence.

23. The criminal legislative framework targets acts of violence. In other words, the enforcement authorities may, irrespective of the relationships, if any, between the abusers and the victims, and independent of where the acts of violence occur, hold the abusers liable for criminal sanctions under the Offences against the Person Ordinance or the Crimes Ordinance.

24. As regards the civil legislative framework, the Protection of Children and Juveniles Ordinance (Cap. 213), the Mental Health Ordinance (Cap. 136) and the DVO provide victims of domestic violence, including children or juveniles, mentally incapacitated persons, as well as individuals in specific relationships and their children living with them respectively, with additional civil protection. The civil legislative

framework provides additional civil remedies for specific groups of individuals in light of their special circumstances and needs.

The Domestic Violence Ordinance

25. The DVO seeks to empower individuals in certain specific relationships and their children to apply to the court for an injunction order against molestation by the other parties in such relationships. Since its enactment in 1986, the DVO has been applicable to spouses, a man and a woman in a cohabitation relationship and their children.

26. The DVO was enacted at a time when the upsurge of spousal abuse cases had given rise to great public concern, especially among women's groups as most were battered wives cases. The aim of the DVO then was to provide quick and simple relief to persons who could not or did not wish to take divorce proceedings. The remedies available under the DVO were tailored to the circumstances pertaining to such spouses, or heterosexual cohabitants with intimate quasi-spousal relationships. For instance, the remedies seek to prohibit an abuser from entering or remaining in the matrimonial home or common residence, thereby allowing the couple a period to "cool off" from continued tension and decide on the way forward with their relationship; or require the abuser with estate or beneficial interests in the matrimonial home or common residence to permit the other party to return and remain therein.

Policy Intent

27. The policy intent of the DVO is premised on the consideration of the special power interface, dynamics and risk factors arising from the intimate relationships between such spouses or between a man and a woman in cohabitation, whose intricate emotional and sexual relationships, concerns for their children's feeling/well being or fear of losing family's financial support may render the victims reluctant to report to the Police the abusers' acts of violence and to seek redress under the criminal legislative framework. In view of these special considerations, the DVO serves to provide additional civil remedies for these victims on top of the current criminal legislative framework. The DVO is tailored to deal with acts of molestation which occur between individuals in a specific relationship, enabling the victim to be temporarily segregated from the abuser and freed from molestation under the protection of an injunction

order, and allowing both parties the time and space to cool down and solve their problems.

28. In response to public concern, the Administration proposed in the 2007 Bill to extend the scope of the DVO to include former spouses and former cohabitants of opposite sex – obviously these persons no longer live together under the same roof, but the acts of violence might not stop by virtue of the former relationships. The public generally supported that these persons should be provided with the additional civil protection under the DVO. After considering that similar special power interface, dynamics and risk factors might exist among relatives (such as parents and sons/daughters or mothers-in-law and daughters-in-law), and having regard to the strong request of the community to provide civil protection for victims of domestic violence in relationships other than spouses or heterosexual cohabitants, e.g. elderly abuse, we proposed to further extend the scope of the DVO to cover persons in other immediate and extended familial relationships so as to enhance the legal protection for victims of domestic violence such as abused elders.

29. The legislative intent of the 2007 Bill, as with the DVO, is to focus on persons in specific relationships, irrespective of whether they are living under one roof. With the coming into operation of the amended DVO on 1 August 2008, the civil protection provided under the DVO does not hinge on whether the victims and the abusers are living under the same roof. For instance, former spouses or heterosexual cohabitants as well as immediate and extended family members who are not living together are also afforded the same protection under the DVO. This legislative principle, which focuses on relationships rather than on whether the victim and the abuser are living under the same roof, has been widely accepted by LegCo.

ENQUIRIES

30. Any enquiry on this brief can be addressed to Mrs Alison LAU, Principal Assistant Secretary for Labour and Welfare (Welfare)² at telephone number 2136 2766.

Labour and Welfare Bureau
3 June 2009

DOMESTIC VIOLENCE (AMENDMENT) BILL 2009

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A BILL

To

Amend the Domestic Violence Ordinance so that the Ordinance applies to a cohabitation relationship between 2 persons (whether of the same sex or of the opposite sex) who live together as a couple in an intimate relationship; and to make consequential and technical amendments.

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Domestic Violence (Amendment) Ordinance 2009.

2. Commencement

This Ordinance comes into operation on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette.

PART 2

AMENDMENTS TO THE DOMESTIC VIOLENCE ORDINANCE AND ITS SUBSIDIARY LEGISLATION

3. Long title amended

The long title to the Domestic Violence Ordinance (Cap. 189) is amended by repealing "domestic violence" and substituting "violence in domestic and cohabitation relationships".

4. **Short title amended**

Section 1 is amended by repealing "Domestic Violence Ordinance" and substituting "Domestic and Cohabitation Relationships Violence Ordinance".

5. **Interpretation and application**

(1) Section 2(1) is amended, in the definition of "respondent", by repealing "or 3A." and substituting ", 3A or 3B;".

(2) Section 2(1) is amended by adding –

"cohabitation relationship" (同居關係) –

(a) means a relationship between 2 persons who live together as a couple in an intimate relationship; and

(b) includes such a relationship that has come to an end;

"party to a cohabitation relationship" (同居關係一方) does not include a person who is or was the spouse of the other party to that relationship;

"specified minor" (指明未成年人) means a minor –

(a) who is a child (whether a natural child, adoptive child or step-child) of the applicant or respondent concerned; or

(b) who is living with the applicant concerned."

(3) Section 2(2) is repealed.

6. **Power of District Court to grant injunction: spouses and former spouses**

Section 3(3) is repealed.

7. **Section added**

The following is added –

**"3B. Power of District Court to grant injunction:
cohabitants and former cohabitants**

(1) On an application by a party to a cohabitation relationship ("the applicant"), the District Court, if it is satisfied that the applicant or a specified minor has been molested by the other party to the cohabitation relationship and subject to section 6, may grant an injunction containing any or all of the following provisions –

- (a) a provision restraining the respondent from molesting the applicant;
- (b) a provision restraining the respondent from molesting the specified minor;
- (c) a provision prohibiting the respondent –
 - (i) (where the applicant has been molested by the respondent) from entering or remaining in –
 - (A) the residence of the applicant;
 - (B) a specified part of the residence of the applicant; or
 - (C) a specified area whether or not the residence of the applicant is in that area,
whether or not the residence is the common residence of the applicant and the respondent;
 - (ii) (where the specified minor has been molested by the respondent) from entering or remaining in –
 - (A) the residence of the specified minor;

(B) a specified part of the residence of the minor; or

(C) a specified area whether or not the residence of the minor is in that area,

whether or not the residence is the common residence of the minor and the respondent;

- (d) a provision requiring the respondent to permit –
- (i) (where the applicant resides with the respondent) the applicant to enter and remain in the common residence of the applicant and the respondent or in a specified part of such common residence; or
 - (ii) (where the specified minor resides with the respondent) the minor to enter and remain in the common residence of the minor and the respondent or in a specified part of such common residence,

whether or not any other relief is being sought in the proceedings.

(2) In determining whether 2 persons ("the parties") are in a cohabitation relationship, the court shall have regard to all the circumstances of the relationship including but not limited to any of the following factors that may be relevant in the particular case –

- (a) whether the parties are living together in the same household;
- (b) whether the parties share the tasks and duties of their daily lives;

- (c) whether there is stability and permanence in the relationship;
- (d) the arrangement of sharing of expenses or financial support, and the degree of financial dependence or interdependence, between the parties;
- (e) whether there is a sexual relationship between the parties;
- (f) whether the parties have any children and how they act towards each other's children;
- (g) the motives of the parties in living together;
- (h) whether such a relationship exists between the parties in the opinion of a reasonable person with normal perceptions.

(3) A court may in an injunction containing a provision mentioned in subsection (1)(a) or (b) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that have led to the granting of the injunction.

(4) In exercising its power 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 specified minor and to all the circumstances of the case."

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

Section 4 is amended by repealing "or 3A" and substituting ", 3A or 3B".

9. Arrest for breach of order

Section 5(1) is amended by repealing "or 3A" and substituting ", 3A or 3B".

10. Limitations as regards injunctions and authorizations of arrest

- (1) Section 6(1) is amended –
- (a) by repealing "or 3A(4)(b) or (c)" and substituting ", 3A(4)(b) or (c) or 3B(1)(c) or (d)";
 - (b) by repealing "3 or 3A" and substituting "3, 3A or 3B".
- (2) Section 6(3) is amended by repealing everything before "is satisfied" and substituting –
- "(3) Nothing in this Ordinance authorizes a court, on an application by a party to a cohabitation relationship –
- (a) to grant an injunction containing a provision mentioned in section 3B(1)(c) or (d); or
 - (b) to attach to an injunction an authorization of arrest under section 5(1),
- unless the court".

11. Court may extend injunctions and authorizations of arrest

Section 7(1)(a) is amended –

- (a) by repealing "3 or 3A" and substituting "3, 3A or 3B";
- (b) by repealing "or 3A(4)(b) or (c)" and substituting ", 3A(4)(b) or (c) or 3B(1)(c) or (d)".

12. Court may vary or suspend custody or access order

Section 7A(1)(a) is amended –

- (a) by repealing "3 or 3A" and substituting "3, 3A or 3B";
- (b) by repealing "or 3A(4)(b)" and substituting ", 3A(4)(b) or 3B(1)(c)".

13. Injunctions not to be registered

Section 10 is amended by repealing "or 3A(4)(b) or (c)" and substituting ", 3A(4)(b) or (c) or 3B(1)(c) or (d)".

Domestic Violence Rules

14. Citation

Section 1 of the Domestic Violence Rules (Cap. 189 sub. leg. A) is amended by repealing "Domestic Violence Rules" and substituting "Domestic and Cohabitation Relationships Violence Rules".

15. Form of authorization of arrest

The Schedule is amended by repealing "Domestic Violence Ordinance" where it twice appears and substituting "Domestic and Cohabitation Relationships Violence Ordinance".

PART 3

SAVING PROVISION

16. Saving provision

The Domestic Violence Ordinance (Cap. 189) (including subsidiary legislation) as it was in force immediately before the commencement date of this Ordinance ("the pre-amended Ordinance") continues to apply, as if this Ordinance had not been enacted, in all respects to –

- (a) any proceedings –
 - (i) that have been commenced under the pre-amended Ordinance; and
 - (ii) that have not been disposed of as at the commencement date;
- (b) a court order (whether an injunction or any other order) –
 - (i) made under the pre-amended Ordinance; and
 - (ii) in force as at the commencement date;

- (c) a court order (whether an injunction or any other order) made in the proceedings mentioned in paragraph (a) on or after the commencement date; and
- (d) any further proceedings that are connected with a court order mentioned in paragraph (b) or (c).

PART 4

CONSEQUENTIAL AMENDMENTS

Rules of the High Court

17. Application

Order 1, rule 2(2) of the Rules of the High Court (Cap. 4 sub. leg. A) is amended, in the Table, by repealing item 8 and substituting –

"(HK) 8.	Proceedings under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189).	Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189), section 8."
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Rules of the District Court

18. Application

Order 1, rule 2(2A)(ba) of the Rules of the District Court (Cap. 336 sub. leg. H) is amended by repealing "domestic violence proceedings" and substituting "proceedings under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189)".

Land Titles Ordinance

19. Consequential amendments

(1) Schedule 3 to the Land Titles Ordinance (Cap. 585) is amended by repealing the heading immediately before section 79 and substituting "**Domestic and Cohabitation Relationships Violence Ordinance**".

(2) Section 79 of Schedule 3 is amended by repealing "Domestic Violence Ordinance" and substituting "Domestic and Cohabitation Relationships Violence Ordinance".

Explanatory Memorandum

This Bill seeks to amend the Domestic Violence Ordinance (Cap. 189) ("the Ordinance") to provide for the meaning of "cohabitation relationship" for the Ordinance's application to such a relationship whether the two parties to the relationship are of the same sex or of the opposite sex. Also, presentational changes are made to the structure of the Ordinance ("presentational changes") with the view that applications for injunctions under the Ordinance made by parties to cohabitation relationships (including such relationships that have come to an end) and those made by parties to marriages or former marriages will fall within separate provisions of the Ordinance as amended by the Bill on its enactment.

Part 1 of the Bill

2. Part 1 of the Bill provides for the short title (clause 1) and commencement (clause 2) of the Bill.

Part 2 of the Bill

3. Part 2 of the Bill contains amendments to the Ordinance and its subsidiary legislation.

4. Clause 3 amends the long title to the Ordinance to align it with the amendment of the short title to the Ordinance, and the presentational changes.

5. Clause 4 amends the short title to the Ordinance to reflect the presentational changes.

6. Clause 5 –

- (a) amends the definition of "respondent" in section 2(1) of the Ordinance to include a reference to the new section 3B, which is added by clause 7;
- (b) amends section 2(1) of the Ordinance to add the definitions of "cohabitation relationship" and "party to a cohabitation relationship" –
 - (i) Definition of "cohabitation relationship"

As defined, 2 persons are in a cohabitation relationship if they live together as a couple in an intimate relationship. They may be of the same sex or of the opposite sex. The term is also defined to include such a relationship that has come to an end. Further provisions are included in the new section 3B(2) directing the court to have regard to all the circumstances of the case in determining whether a relationship has the quality that is required of a cohabitation relationship to which the Ordinance is applicable;
 - (ii) Definition of "party to a cohabitation relationship"

This definition ensures that application for an injunction made by a person under the Ordinance against that person's spouse or former spouse does not fall within the new section 3B, which applies to cohabitation relationships exclusively;
- (c) amends section 2(1) of the Ordinance to include the definition of "specified minor" (which is an existing definition set out in section 3(3) of the Ordinance) so that the definition applies to both section 3 and the new section 3B of the Ordinance;

- (d) repeals section 2(2) of the Ordinance. In consequence of the repeal, section 3 of the Ordinance no longer applies to any cohabitation relationship.

7. Clause 6 repeals section 3(3) of the Ordinance. Section 3(3) contains the definition of "specified minor", which is no longer necessary in view of the amended section 2(1) of the Ordinance.

8. Clause 7 adds a new section 3B to the Ordinance. Apart from subsection (2), the new section 3B in essence is the same as section 3 of the Ordinance – only that section 3 applies to the relationships of spouses or former spouses while the new section 3B applies to cohabitation relationships as defined in the Ordinance as amended (in both cases, the injunction sought may concern a specified minor). The new section 3B –

- (a) provides, in subsection (1), to the effect that a party to a cohabitation relationship may apply for an injunction (as specified in that subsection) against the other party to that relationship;
- (b) provides, in subsection (2), to the effect that in determining whether a relationship amounts to a cohabitation relationship (whether of the same sex or of the opposite sex) for the application of the Ordinance, the court shall have regard to all the circumstances of the relationship including but not limited to the factors listed in that subsection.

9. Clauses 8 and 9 amend the cross references to section numbers referred to in sections 4 and 5(1) of the Ordinance.

10. Clause 10 amends section 6 of the Ordinance. The amendments to subsection (1) of section 6 concern the cross references to section numbers referred to in that subsection. Section 6(3) of the Ordinance is amended in view of the repeal of section 2(2) of the Ordinance.

11. Clauses 11, 12 and 13 amend the cross references to section numbers referred to in sections 7(1)(a), 7A(1)(a) and 10 of the Ordinance.

12. Clauses 14 and 15 amend the Domestic Violence Rules (Cap. 189 sub. leg A) to reflect the change of the short title to the Ordinance.

Part 3 of the Bill

13. Clause 16 is a saving provision.

Part 4 of the Bill

14. Clauses 17, 18 and 19 effect consequential amendments to other Ordinances.

DOMESTIC VIOLENCE ORDINANCE
(Cap. 189)

To provide protection of persons from ~~domestic violence~~ violence in domestic and cohabitation relationships and for matters ancillary thereto.

1. Short title

This Ordinance may be cited as the ~~Domestic Violence Ordinance~~ Domestic and Cohabitation Relationships Violence Ordinance.

2. Interpretation and application

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

"cohabitation relationship" (同居關係) –

(a) means a relationship between 2 persons who live together as a couple in an intimate relationship; and

(b) includes such a relationship that has come to an end;

"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; (Amended 17 of 2008 s. 3)

"minor" (未成年人) means a person under the age of 18 years; (Added 17 of 2008 s. 3)

"party to a cohabitation relationship" (同居關係一方) does not include a person who is or was the spouse of the other party to that relationship;

"respondent" (答辯人) means the person against whom an injunction is granted or sought to be granted under section ~~3 or 3A~~, 3A or 3B; (Added 17 of 2008 s. 3)

(Amended 17 of 2008 s. 3)

"specified minor" (指明未成年人) means a minor –

(a) who is a child (whether a natural child, adoptive child or step-child) of the applicant or respondent concerned; or

(b) who is living with the applicant concerned.

~~(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), "matrimonial home" (婚姻居所) and "spouse" (配偶) (except in section 3A(2)) shall be construed accordingly. (Amended 17 of 2008 s. 3)~~

3. Power of District Court to grant injunction: spouses and former spouses*

(1) On an application by a person the District Court, if it is satisfied that the applicant or a specified minor has been molested by the spouse or former spouse of the applicant and subject to section 6, may grant an injunction containing any or all of the following provisions— (Amended 17 of 2008 s. 4)

(a) a provision restraining the respondent from molesting the applicant;

(b) a provision restraining the respondent from molesting any specified minor;

(c) a provision prohibiting the respondent— (Amended 17 of 2008 s. 4)

(i) (where the applicant has been molested by the respondent) from entering or remaining in—

(A) the residence of the applicant;

(B) a specified part of the residence of the applicant; or

(C) a specified area whether or not the residence of the applicant is in that area,

whether or not the residence is the common residence or matrimonial home of the applicant and the respondent;

(ii) (where the specified minor has been molested by the respondent) from entering or remaining in—

(A) the residence of the specified minor;

(B) a specified part of the residence of the minor; or

(C) a specified area whether or not the residence of the minor is in that area,

whether or not the residence is the common residence of the minor and the respondent;

(d) a provision requiring the respondent to permit— (Amended 17 of 2008 s. 4)

(i) (where the applicant resides with the respondent) the applicant to enter and remain in the common residence or matrimonial home of the applicant and the respondent or in a specified part of such common residence or matrimonial home; or

(ii) (where the specified minor resides with the respondent) the minor to enter and remain in the common residence of the minor and the respondent or in a specified part of such common residence,

whether or not any other relief is being sought in the proceedings.

(1A) A court may in an injunction containing a provision mentioned in subsection (1)(a) or (b) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that lead to the granting of such injunction. (Added 17 of 2008 s. 4)

(2) In exercising its power 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 specified minor and to all the circumstances of the case.

~~(3) In this section, “specified minor” (指明未成年人) means a minor—~~

~~(a) who is a child (whether a natural child, adoptive child or step-child) of the~~

applicant or respondent concerned; or

~~(b) who is living with the applicant concerned. (Added 17 of 2008 s. 4)~~

(Amended 17 of 2008 s. 4)

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

Note:

* (Amended 17 of 2008 s. 4)

3A. Power of District Court to grant injunction: other relatives

(1) The District Court may, on an application made by a person (“the applicant”), if satisfied that the applicant has been molested by a relative of the applicant, grant an injunction against that relative.

(2) In subsection (1), “relative” (親屬) means—

- (a) the applicant's father, mother, grandfather or grandmother (whether natural or adoptive);
- (b) the applicant's step-father, step-mother, step-grandfather or step-grandmother;
- (c) the applicant's father-in-law or mother-in-law who is the natural parent, adoptive parent or step-parent of the applicant's spouse;
- (d) the applicant's grandfather-in-law or grandmother-in-law who is the natural grandparent, adoptive grandparent or step-grandparent of the applicant's spouse;
- (e) the applicant's son, daughter, grandson or granddaughter (whether natural or adoptive);
- (f) the applicant's step-son, step-daughter, step-grandson or step-granddaughter;
- (g) the applicant's son-in-law or daughter-in-law who is the spouse of the applicant's natural child, adoptive child or step-child;
- (h) the applicant's grandson-in-law or granddaughter-in-law who is the spouse of

the applicant's natural grandchild, adoptive grandchild or step-grandchild;

- (i) the applicant's brother or sister (whether of full or half blood or by virtue of adoption);
- (j) the brother or sister (whether of full or half blood or by virtue of adoption) of the applicant's spouse;
- (k) the applicant's step-brother or step-sister;
- (l) the step-brother or step-sister of the applicant's spouse;
- (m) the applicant's uncle, aunt, nephew, niece or cousin (whether of full or half blood or by virtue of adoption);
- (n) the uncle, aunt, nephew, niece or cousin (whether of full or half blood or by virtue of adoption) of the applicant's spouse; or
- (o) the spouse of any person mentioned in paragraph (i), (j), (k), (l), (m) or (n).

(3) A minor who applies for an injunction under subsection (1) shall apply by his next friend.

(4) Subject to section 6, an injunction granted under subsection (1) may, whether or not any other relief is being sought in the proceedings, contain any or all of the following provisions—

- (a) a provision restraining the respondent from molesting the applicant;
- (b) a provision prohibiting the respondent from entering or remaining in—
 - (i) the residence of the applicant;
 - (ii) a specified part of the residence of the applicant; or
 - (iii) a specified area whether or not the residence of the applicant is in that area,

whether or not the residence is the common residence of the applicant and the

respondent;

(c) (where the applicant resides with the respondent) a provision requiring the respondent to permit the applicant to enter and remain in—

- (i) the common residence of the applicant and the respondent; or
- (ii) a specified part of such common residence.

(5) A court may in an injunction containing a provision mentioned in subsection (4)(a) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that lead to the granting of such injunction.

(6) In exercising its power to grant an injunction containing a provision mentioned in subsection (4)(b) or (c), the District Court shall have regard to—

- (a) (where the applicant resides with the respondent) who has—
 - (i) the legal or beneficial interest in; or
 - (ii) a contractual or legal right to occupy,
the common residence of the applicant and the respondent;
- (b) (where the applicant resides with the respondent) the impact of the injunction on the relationship between the applicant, the respondent and their other family members who reside with them;
- (c) the conduct of the applicant and the respondent, both in relation to each other and otherwise;
- (d) the respective needs and financial resources of the applicant and the respondent; and
- (e) all the circumstances of the case.

3B. Power of District Court to grant injunction: cohabitants and former cohabitants

(1) On an application by a party to a cohabitation relationship ("the applicant"), the District Court, if it is satisfied that the applicant or a specified minor has been molested by the other party to the cohabitation relationship and subject to section 6, may grant an injunction containing any or all of the following provisions –

(a) a provision restraining the respondent from molesting the applicant;

(b) a provision restraining the respondent from molesting the specified minor;

(c) a provision prohibiting the respondent –

(i) (where the applicant has been molested by the respondent) from entering or remaining in –

(A) the residence of the applicant;

(B) a specified part of the residence of the applicant; or

(C) a specified area whether or not the residence of the applicant is in that area,

whether or not the residence is the common residence of the applicant and the respondent;

(ii) (where the specified minor has been molested by the respondent) from entering or remaining in –

(A) the residence of the specified minor;

(B) a specified part of the residence of the minor; or

(C) a specified area whether or not the residence of the minor is in that area,

whether or not the residence is the common residence of the minor and the respondent;

(d) a provision requiring the respondent to permit –

(i) (where the applicant resides with the respondent) the applicant to enter and remain in the common residence of the applicant and the respondent or in a specified part of such common residence; or

(ii) (where the specified minor resides with the respondent) the minor to enter and remain in the common residence of the minor and the respondent or in a specified part of such common residence.

whether or not any other relief is being sought in the proceedings.

(2) In determining whether 2 persons ("the parties") are in a cohabitation relationship, the court shall have regard to all the circumstances of the relationship including but not limited to any of the following factors that may be relevant in the particular case –

(a) whether the parties are living together in the same household;

(b) whether the parties share the tasks and duties of their daily lives;

(c) whether there is stability and permanence in the relationship;

(d) the arrangement of sharing of expenses or financial support, and the degree of financial dependence or interdependence, between the parties;

(e) whether there is a sexual relationship between the parties;

(f) whether the parties have any children and how they act towards each other's children;

(g) the motives of the parties in living together;

(h) whether such a relationship exists between the parties in the opinion of a reasonable person with normal perceptions.

(3) A court may in an injunction containing a provision mentioned in subsection (1)(a) or (b) include a provision requiring the respondent to participate in any programme, approved by the Director of Social Welfare, that is aimed at changing the attitude and behaviour that have led to the granting of the injunction.

(4) In exercising its power 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 specified minor and to all the circumstances of the case.

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

The Court of First Instance may exercise the powers conferred on the District Court under section ~~3 or 3A, 3A or 3B~~- (Amended 17 of 2008 s. 6)

- (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)

5. Arrest for breach of order

*(1)Where a court grants, pursuant to section ~~3 or 3A, 3A or 3B~~, or pursuant to any other power upon an application made by a party to a marriage against the other party to the marriage, an injunction containing—

- (a) a provision restraining any person from using violence against another person (“protected person”); or
- (b) a provision prohibiting any person from entering or remaining in any premises or area,

the court may, subject to subsection (1A) and section 6, attach to the injunction an authorization of arrest in the prescribed form. (Replaced 17 of 2008 s. 7)

*(1A) A court shall not attach under subsection (1) an authorization of arrest to an injunction granted against a person unless-

- (a) it is satisfied that the person has caused actual bodily harm to the protected person; or
- (b) it reasonably believes that the person will likely cause actual bodily harm to

the protected person. (Added 17 of 2008 s. 7)

*(1B) An authorization of arrest may be attached under subsection (1) to an injunction-

- (a) at the time the injunction is granted; or
- (b) at any time during the validity period of the injunction. (Added 17 of 2008 s. 7)

(2) Where under subsection (1) an authorization 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 or remaining in 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 an authorization 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 an authorization 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 or black rainstorm warning day.

(Amended 25 of 1998 s. 2; 17 of 2008 s. 7)

[cf. 1976 c. 50 s. 2 U.K.]

Note:

* This section was amended by section 7 of the Domestic Violence (Amendment) Ordinance 2008 (17 of 2008). The saving provision contained in section 18 of that Amendment Ordinance reads as follows—

"18. Saving provision

A power of arrest attached to an injunction under section 5(1) of the Domestic Violence Ordinance (Cap 189) before the commencement# of this Ordinance shall, upon such commencement, be regarded for all purposes as an authorization of arrest attached under that section as amended by this Ordinance."

Commencement date: 1 August 2008.

6. Limitations as regards injunctions and authorizations of arrest*

(1) A provision mentioned in section 3(1)(c) or (d) ~~or 3A(4)(b) or (e)~~, 3A(4)(b) or (c) or 3B(1)(c) or (d) contained in an injunction granted under section ~~3 or 3A-3~~, 3A or 3B shall have effect for a period, not exceeding 24 months, as the court considers appropriate.

(Replaced 17 of 2008 s. 8)

(2) An authorization of arrest attached under section 5(1) to an injunction shall—

- (a) have effect for a period, not exceeding 24 months, as the court considers appropriate; and

(b) expire upon the expiry of the validity period of the injunction. (Replaced 17 of 2008 s. 8)

~~(3) Nothing in this Ordinance shall authorize a court on an application made under section 3 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 an authorization of arrest, unless that court—~~

(3) Nothing in this Ordinance authorizes a court, on an application by a party to a cohabitation relationship —

(a) to grant an injunction containing a provision mentioned in section 3B(1)(c) or

(d); or

(b) to attach to an injunction an authorization of arrest under section 5(1),

unless the court is satisfied that having regard to the permanence of the cohabitation relationship it is appropriate in all the circumstances to grant that injunction or attach that authorization of arrest. (Amended 17 of 2008 s. 8)

Note:

* (Amended 17 of 2008 s. 8)

7. Court may extend injunctions and authorizations of arrest

(1) Subject to subsection (4), a court may, on an application—

(a) extend the validity period of an injunction granted under section ~~3 or 3A~~ 3, 3A or 3B that contains a provision mentioned in section 3(1)(c) or (d) ~~or 3A(4)(b) or (e), 3A(4)(b) or (c) or 3B(1)(c) or (d);~~ or

(b) (where an authorization of arrest is attached under section 5(1) to the injunction) extend the validity period of the authorization of arrest,

for such further period as the court considers appropriate.

(2) The court may extend an injunction or an authorization of arrest under subsection

(1) only during the validity period of the injunction concerned.

(3) An application under subsection (1) may be made by—

(a) the applicant of the injunction concerned;

(b) (where the applicant of the injunction concerned is a minor) the minor applying by his next friend.

(4) The validity period of an injunction or an authorization of arrest may not be extended under subsection (1) beyond the second anniversary of the date on which the injunction was granted.

(Replaced 17 of 2008 s. 9)

7A. Court may vary or suspend custody or access order

(1) If—

(a) a court grants, under section ~~3 or 3A~~3, 3A or 3B, an injunction containing a provision mentioned in section ~~3(1)(c) or 3A(4)(b)~~, 3A(4)(b) or 3B(1)(c) that concerns a minor; and

(b) at the time the court determines the application for the injunction, there is in force—

(i) a court order that grants the custody of the minor to the respondent to the injunction; or

(ii) a court order that allows the respondent to the injunction to have access to the minor,

the court may vary or suspend the court order in such manner as the court considers necessary for giving effect to the provision.

(2) In subsection (1)(b), “court order” (法庭命令) means—

(a) in relation to the application of subsection (1) to the District Court, an order

made by the District Court; and

(b) in relation to the application of subsection (1) to the Court of First Instance, an order made by the Court of First Instance or the District Court.

(3) In considering varying or suspending a court order under subsection (1), the court shall—

(a) regard the welfare of the minor as the first and paramount consideration; and

(b) in having such regard, give due consideration to—

(i) the wishes of the minor if, having regard to the age and understanding of the minor and to the circumstances of the case, it is practicable to do so; and

(ii) any material information, including any report of the Director of Social Welfare available to the court at the hearing.

(4) If a court order is varied under subsection (1), the order shall, notwithstanding any other Ordinance or rule of law, have effect subject to such variation.

(5) A variation of a court order under subsection (1) in respect of an injunction shall be signified by attaching to the injunction a copy of the order endorsed with the particulars of the variation.

(6) A variation or suspension of a court order made in respect of an injunction shall cease to have effect upon the expiry of the validity period of the injunction.

(Added 17 of 2008 s. 10)

8. Rules of practice and procedure

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 connexion 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 an authorization of arrest attached, under section 5(1), to an injunction; and (Amended 17 of 2008 s. 11)
- (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)

9. Saving as to existing jurisdiction

Remarks:

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)

10. Injunctions not to be registered

An injunction containing a provision mentioned in section 3(1)(c) or (d) ~~or 3A(4)(b) or (e)~~, 3A(4)(b) or (c) or 3B(1)(c) or (d) shall not be registered under the Land Registration Ordinance (Cap. 128).

(Amended 17 of 2008 s. 12)

11. Powers of the court to be exercised by a judge

Remarks:

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.

DOMESTIC VIOLENCE RULES

(Cap. 189 sub. leg A)

1. Citation

These rules may be cited as the ~~Domestic Violence Rules~~Domestic and Cohabitation Relationships Violence Rules.

...

4. Form of authorization of arrest

An authorization of arrest shall be in the form set out in the Schedule.

SCHEDULE

[s. 4]

FORM OF AUTHORIZATION OF ARREST

(Heading as in Originating Summons)

[set out the injunction here]

AUTHORIZATION OF ARREST

And the Judge—

* being satisfied that the Respondent has caused actual bodily harm to _____(name)_____ ,

* reasonably believing that the Respondent will likely cause actual bodily harm to _____(name)_____ ,

this authorization of arrest is attached to the above injunction whereby any police officer may arrest without warrant a person whom he reasonably suspects of being in breach of the injunction as described in section 5(2) of the ~~Domestic Violence Ordinance~~Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189).

This authorization of arrest expires at 12 midnight on the _____ day of _____ unless extended under section 7 of the ~~Domestic Violence Ordinance~~Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189).

* Delete where inappropriate.

RULES OF THE HIGH COURT

(Cap. 4 sub. leg. A)

...

2. Application (O. 1, r. 2)

...

(2) These rules shall not have effect in relation to proceedings of the kinds specified in the first column of the following Table (being proceedings in respect of which rules may be made under the enactments specified in the second column of that Table)-

TABLE

	Proceedings	Enactments
1.	Bankruptcy proceedings.	Bankruptcy Ordinance (Cap. 6), section 113.
2.	Proceedings relating to the winding-up of companies.	Companies Ordinance (Cap. 32), section 296.
3.	Non-contentious or common form probate proceedings.	Probate and Administration Ordinance (Cap. 10), section 72.
4.	Proceedings in the Court when acting as a Prize Court.	Prize Courts Act 1894, section 3.
5.	(Repealed 81 of 1997 s. 59)	
6.	Matrimonial proceedings.	Matrimonial Causes Ordinance (Cap. 179), sections 10 and 54.
(HK)7.	Adoption proceedings.	Adoption Ordinance (Cap. 290), section 12.
(HK)8.	Proceedings in respect of domestic violence.	Domestic Violence Ordinance (Cap. 189), section 8.
(HK)8.	<u>Proceedings under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189).</u>	<u>Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189), section 8.</u>

...

RULES OF THE DISTRICT COURT

(Cap. 336 sub. leg. H)

2. **Application** (O. 1, r. 2)

...

(2A) Subject to paragraph (2B), these Rules shall not have effect in relation to- (L.N. 153 of 2008)

- (a) proceedings under Part III of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);
- (b) matrimonial proceedings (except for an appeal against any judgment, order or decision of a judge to which Order 58 shall apply); (L.N. 153 of 2008)

(ba) ~~domestic violence proceedings~~ proceedings under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) (except for an appeal against any judgment, order or decision of a judge to which Order 58 applies); (L.N. 153 of 2008)

...

LAND TITLES ORDINANCE (Cap. 585)

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS

...

~~Domestic Violence Ordinance~~ Domestic and Cohabitation Relationships Violence Ordinance

79. Injunctions not to be registered

Section 10 of the ~~Domestic Violence Ordinance~~ Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) is amended by adding "or the Land Titles Ordinance (Cap. 585)" after "Land Registration Ordinance (Cap. 128)".

...

(i) Financial and Civil Service Implications

The proposal of expanding the scope of the DVO to include same-sex cohabitants will theoretically increase the number of persons applying for injunction under the DVO. But we anticipate that in practice the increase (if any) would be extremely small and the additional expenditure arising from the extra workload for the Court and related departments as well as greater demand for legal aid and housing assistance for affected parties would be negligible. If, in the light of the experience gained after the Bill has come into operation, additional resources are considered necessary for the implementation of the legislation, the resources will be sought in accordance with the established resources allocation procedures.

(ii) Economic Implications

The proposal has no direct implications on overall economic activity. As the proposal will increase protection to same-sex cohabitants and prevent possible negative consequences for society, there are likely to be savings in terms of the burden on the criminal justice system, health care, social services, civil legal service and economic output.