

**Legislative Council Bills Committee on
Domestic Violence (Amendment) Bill 2007**

Proposed Committee Stage Amendments

During discussions at various meetings of the LegCo Bills Committee on Domestic Violence (Amendment) Bill 2007 (the Bill), the Administration has undertaken to propose suitable amendments to the Bill to address the various issues identified by Members. In this regard, please find set out at Annex our proposed committee stage amendments (CSAs) to the Bill, with the underlying rationale elaborated below –

<u>Clause</u>	<u>Purpose of the proposed amendments</u>
2	<p>Following the re-organisation of the Government Secretariat with effect from 1 July 2007, the Secretary for Labour and Welfare is now the public officer who is in charge of the Bill.</p> <p>There is therefore a need to replace “Secretary for Health, Welfare and Food” by “Secretary for Labour and Welfare” in the commencement clause to reflect this.</p>
4(2)	<p>To put beyond doubt that in relation to an exclusion order, the respondent would be restrained from “entering and remaining” in the specified area.</p>
4(5)	<p>To reinstate protection of the Domestic Violence Ordinance (DVO) for any minor living with the applicant concerned from being molested by the applicant’s spouse or cohabitant, and extend protection for any minor living with the applicant concerned from being molested by the applicant’s former spouse or cohabitant.</p>
5	<p>To put beyond doubt that in relation to an exclusion order, the respondent would be restrained from “entering and remaining” in the specified area.</p>
7(1)	<p>To reinstate in the amended section 5(1) that the court could attach an authorisation of arrest to a non-molestation order or exclusion order granted under the inherent jurisdiction of</p>

<u>Clause</u>	<u>Purpose of the proposed amendments</u>
	<p>the court upon application by a party to a marriage against the other party to the marriage.</p> <p>To add “actual” before “bodily harm” in section 5(1A)(b) to tally with the term adopted in section 5(1A)(a).</p>
7	<p>To put beyond doubt that in relation to an exclusion order, the respondent would be restrained from “entering and remaining” in the specified area.</p> <p>To amend section 5(4) to exclude also the black rainstorm warning day when computing time for the purpose of implementing the DVO.</p>
8(3)	<p>To amend section 6(3) to clarify that the court should have regard to the permanence of the cohabitation relationship in granting an injunction, with or without an authorization of arrest attached, whether the persons were in an existing or a former cohabitation relationship.</p>

2. Members are invited to note and comment on the draft CSAs proposed by the Administration.

Labour and Welfare Bureau
February 2008

DOMESTIC VIOLENCE (AMENDMENT) BILL 2007

COMMITTEE STAGE

Amendments moved by the Secretary for
Labour and Welfare

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting "Secretary for Health, Welfare and Food" and substituting "Secretary for Labour and Welfare".
4(2)	(a) In paragraph (g), in the English text, by deleting "excluding" and substituting "provision". (b) In paragraph (g), in the English text, by adding "prohibiting" before "the respondent -". (c) In the proposed subparagraphs (i) and (ii), by deleting "from -" and substituting "from entering or remaining in -".
4(5)	In the proposed section 3(3), by repealing everything after "means a" and substituting - "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."

5 In the proposed section 3A(4) (b), by deleting "excluding the respondent from -" and substituting "prohibiting the respondent from entering or remaining in -".

7(1) (a) In the proposed section 5(1), by deleting everything before "the court" and substituting -

"(1) Where a court grants, pursuant to section 3 or 3A, 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,".

(b) In the proposed section 5(1A), by deleting "an authorization of arrest under subsection (1)" and substituting "under subsection (1) an authorization of arrest to an injunction granted against a person".

(c) In the proposed section 5(1A) (a), by deleting "respondent" and substituting "person".

(d) In the proposed section 5(1A)(b), by deleting
"respondent will likely cause" and substituting
"person will likely cause actual".

7

(a) By adding -

"(2A) Section 5(2) is amended by adding "or
remaining in" after "entry into"."

(b) By adding -

"(5) Section 5(4) is amended by adding "warning
day or black rainstorm" after "gale"."

8(3)

In paragraph (a), by adding "under section 3" after "made".

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In the proposed section 7A(3)(b)(ii), in the Chinese text,
by repealing everything after "包括" and substituting "在
聆訊進行時備呈法院的社會福利署署長的任何報告。".