

DISPUTES

Domestic Violence: New definitions you should know

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Domestic Violence Amendment Bill

Introduction

The annual "16 Days of Activism for No Violence against Women and Children" campaign commenced on 25 November (International Day of No Violence against Women) and ends on 10 December (International Human Rights Day). It aims to raise awareness about gender-based violence and its harmful effects on women, children and society at large.

Government has recently introduced the Domestic Violence Amendment Bill ("[Bill](#)") to amend the Domestic Violence Act ("Act"). The [proposed amendments](#) include some new and revised definitions of "domestic violence". In the campaign's spirit of raising awareness, some of these definitions are highlighted below.

New definitions

These are proposed definitions that the Bill aims to introduce into the Act.

Coercive Behaviour means "to compel or force a complainant to abstain from doing anything that they have a lawful right to do, or to do anything that they have a lawful right to abstain from doing".

Controlling Behaviour is "behaviour towards a complainant that has the effect of making the complainant dependent on, or subservient to, the respondent and includes—

- (a) isolating them from sources of support;
- (b) exploiting their resources or capacities for personal gain;
- (c) depriving them of the means needed for independence, resistance or escape; or
- (d) regulating their everyday behaviour".

In general, coercive and controlling behaviours are calculated to erode, or have the effect of eroding a complainant's individuality, self-identity or self-determination. They involve different manipulative tactics that subjugate a complainant to the will of the abuser until the complainant can no longer be said to be acting of their own volition.

Elder Abuse means abuse of elderly people (females who are 60 years or older, and males who are 65 years or older). It entails any conduct or lack of appropriate action, occurring within a domestic relationship where there is an expectation of trust, which causes or is likely to cause harm or distress to an older person.

Expose a Child to Domestic Violence means to intentionally cause a child to see or hear domestic violence, or to experience its effects.

Related Person Abuse involves committing, or threatening to commit, acts of physical violence or damage to the property of any member of the family or household of a complainant, or a person in a close relationship with the complainant, where such actions are intended or calculated to cause harm to the complainant.

Sexual Harassment introduces a specified range of unwelcome or abusive sexual conduct or sexually oriented requests which constitute domestic violence. This is in addition to the pre-existing definition of *"sexual abuse"* in the Act.

Spiritual Abuse means:

"(a) advocating hatred against the complainant because of their religious or spiritual beliefs, that constitutes incitement to cause harm to the complainant;

(b) preventing the complainant from exercising their constitutional right to freedom of conscience, religion, thought, belief and opinion, including to give external manifestation to their religious or spiritual convictions and beliefs; or

(c) manipulating the complainant's religious or spiritual convictions and beliefs to justify or rationalise abusing the complainant".

This definition appears to have been included in response to reported abuses of people's belief systems in South Africa as outlined in a 2017 report of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities titled *"The Commercialisation of Religion and Abuse of People's Belief Systems"*.

Revised definitions of the Domestic Violence Amendment Bill

The following are definitions in the Act which will be amended in some way by the Domestic Violence Amendment Bill.

Economic Abuse will include additional forms of conduct, being: *"the use of financial resources of a complainant, without the complainant's permission" and "the coercing of the complainant to: (i) relinquish control over assets or income; or (ii) sign a legal document that would enable the complainant's finances to be managed by another person"*.

Emotional, Verbal or Psychological Abuse ("or" is a new amendment substituting the word *"and"*) will include the following additional forms of conduct:

"(d) the wilful damaging or destruction of any property in close vicinity of a complainant;

(e) to harm or threaten to harm a household pet or other animal, whose welfare affects a complainant's well-being;

(f) to disclose or threaten to disclose a complainant's sexual orientation or other private information concerning a complainant, to others without the complainant's consent;

(g) to threaten the complainant with the death or injury of another person or damage of another person's property; or

(h) threats to commit suicide or self-harm".

Harassment will be expanded to include, amongst other things: specified forms of disclosure of, or unauthorised access to electronic communications; monitoring or tracking of a complainant's movements, activities or interpersonal associations; and unreasonable interference with a complainant's exclusive use of property. Notably, the Bill will delete the stand-alone definition of *"stalking"* (in the Act) and will incorporate it into the revised definition of *"harassment"*.

Intimidation will be wholly redefined as:

"(a) physical violence, or damage to property belonging, to a complainant or any other person;

(b) threats of physical violence, or damage to property belonging, to a complainant or any other person;

(c) to deprive the complainant or any other person of their liberty or threatening to do so; or

(d) conveying a threat, or causing a complainant to receive a threat, which induces fear of physical violence, or damage to property belonging to a complainant or any other person through electronic communication,

where such conduct is intended to compel a complainant to abstain from doing anything that they have a lawful right to do, or to do anything that they have a lawful right to abstain from doing."

Physical Abuse will include actual or threatened: physical violence; deprivation of a complainant's liberty; administration or attempted administration of drugs or any other chemical substances to a complainant without their consent; or withholding of a complainant's medication.

Conclusion

The Domestic Violence Amendment Bill has been approved by Parliament and was sent to the President for his assent. If he assents, the Bill will become law and the definitions outlined above will come into operation.

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