

THE DOWRY PROHIBITION ACT, 1961

(No. 28 of 1961) [20th May, 1961] An Act to prohibit the giving or taking of dowry BE it enacted by Parliament in the Twelfth year of the Republic of India as follows:- Short title, extent and commencement- (1) This Act may be called the Dowry Prohibition Act, 1961. (2) It extends to the whole of India except the State of Jammu and Kashmir. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition of “dowry” In this Act, “dowry” means any property or valuable security given or agreed to be given either directly or indirectly- • by one party to a marriage to the other party to the marriage; or • by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before [or any time after the marriage] [in connection with the marriage of the said parties but does not include] dower or mehar in the case of persons to whom the Muslim Personal Law (Shariat) applies. Explanation II- The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code (45 of 1860).

Penalty for giving or taking dowry- [(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable [with imprisonment for a term which shall not be less than [five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]. Provided that the Court may, for adequate and special reasons to be recorded in the judgement, impose a sentence of imprisonment for a term of less than [five years]. [(2) Nothing in sub-section (1) shall apply to, or in relation to, – • Presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf). • Provided that such presents are entered in a list maintained in accordance with the rules made under this Act; presents which are given at the time of a marriage to the bridegroom (without any demand having been made in the behalf). • Provided that such presents are entered in a list maintained in accordance with the rules made under this Act. • Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents is given]. [4. Penalty for demanding dowry- If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees. Provided that the Court may, for adequate and special reasons to be mentioned in the judgement impose a sentence of imprisonment

for a term of less than six months]. [4A. Ban on advertisement- If any person, – • offers, through any advertisement in any newspaper, periodical, journal or through any other media, any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative; • prints or publishes or circulates any advertisement referred to in clause (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees. Provided that the Court may, for adequate and special reasons to be recorded in the judgement impose a sentence of imprisonment for a term of less than six months.] Agreement for giving or taking dowry to be void Any agreement for the giving or taking of dowry shall be void. Dowry to be for the benefit of the wife or her heirs (1) where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman – • if the dowry was received before marriage, within 1[three months] after the date of marriage; or • if the dowry was received at the time of or after the marriage, within 1[three months] after the date of its receipt; or • if the dowry was received when the woman was a minor, within 1[three months] after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman. [(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified there for [or as required by sub-section (3),] he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to ten thousand rupees] or with both.] (3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being. [Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall, - • if she has no children, be transferred to her parents, or • if she has children, be transferred to such children and pending such transfer, be held in trust for such children.] [(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) 3[or sub-section (3)] has not, before his conviction under that sub-section, transferred such property to the woman entitled thereto or, as the case may be, [her heirs, parents or children] the court shall, in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to such woman or, as the case may be, 6[her heirs, parents or children] within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman

or, as the case may be, 1 [her heirs, parents or children]. (4) Nothing contained in this section shall affect the provisions of section 3 or section 4.

7. Cognizance of offences (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

- no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;
- no court shall take cognizance of an offence under this Act except upon-
- its own knowledge or a police report of the facts which constitute such offence; or
- a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organization;
- it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorized by this Act on any person convicted of any offence under this Act.

Explanation For the purposes of this sub-section “recognized welfare institution or organization” means a social welfare institution or organization recognized in this behalf by the Central or State Government. (2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.] (3) Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.]

8. Offences to be cognizable for certain purposes and to be bailable and noncompoundable (1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as if they were cognizable offences-

- for the purposes of investigation of such offences; and
- for the purposes of matters other than-
- matters referred to in section 42 of that Code; and
- the arrest of a person without a warrant or without an order of a Magistrate. (2) Every offence under this Act shall be non-bailable and non-compoundable.

8A. Burden of proof in certain cases Where any person is prosecuted for taking or abetting the taking of any dowry under section 3, or the demanding of dowry under section 4, the burden of proving that he had not committed an offence under those sections shall be on him.

8B. Dowry Prohibition Officers The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act. (3) Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely:-

- to see that the provisions of this Act are complied with;
- to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;
- to collect such evidence as may be necessary for the prosecution of persons committing offences under this Act; and
- to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act. (4) The State Government may, by notification in the Official Gazette, confer such powers of a police officer as

may be specified in the notification on the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act. (5) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercise jurisdiction under sub-section. 9. Power to make rules • The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. • In particular, and without prejudice to the generality of the foregoing power, such rules may provide for- • the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and • the better co-ordination of policy and action with respect to the administration of this Act. Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or 2[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 10. Power of the State Government to make rules • The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. • In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- • the additional functions to be performed by the Dowry Prohibition Officers under sub-section (2) of section 8B; • Limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of section 8B. • Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature. The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 G.S.R.664(E)-In exercise of the powers conferred by section 9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby make the following rules, namely:- Short title and commencement • These rules may be called the Dowry Prohibition (Maintenance of lists of Presents to the Bride and Bridegroom) Rules, 1985. • They shall come into force on the 2nd day of October, 1985 being the date appointed for the coming into force of the Dowry

Prohibition (Amendment) Act, 1984 (63 of 1984). Rules in accordance with which lists of presents are to be maintained-

- The list of presents which are given at the time of the marriage to the bride shall be maintained by the bride.
- The list of presents which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.
- Every list of presents referred to in sub-rule (1) or sub-rule (2)-

(a) shall be prepared at the time of the marriage or as soon as possible after the marriage; (b) shall be in writing; (c) shall contain-

- (d) a brief description of each present;
- (e) the approximate value of the present;
- (f) the name of the person who has given the present; and
- (g) where the person giving the present is related to the bride or bridegroom, a description of such relationship;
- (h) shall be signed by both the bride and the bridegroom.

Explanation I Where the bride is unable to sign, she may affix her thumb-impression in lieu of her signature after having the list read out to her and obtaining the signature, on the list, of the person who has so read out the particulars contained in the list. Explanation II Where the bridegroom is unable to sign he may affix his thumb-impression in lieu of his signature after having the list read out to him and obtaining the signature, on the list, of the person who has so read out the particulars contained in the list. The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any relations of the bride or the bridegroom or of any other person present at the time of the marriage.

The Immoral Traffic (Prevention) Act, 1956

Introduction Bill No. 58 of 1954 With a view to implement International Convention signed at New York on the 9th May, 1950, " THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMAN AND GIRLS BILL, 1950" was introduced in the Lok Sabha on the 20th December, 1954, by the then Minister K.N. Katju. STATEMENT OF OBJECTS AND REASONS: (1) In 1950 the Government of India ratified an International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of the Prostitution of others. Under Article 23 of the Convention, traffic in human beings is prohibited and any contravention of the prohibition is an offence punishable by law. Under Article 35 such a law has to be passed by Parliament as soon as may be after the commencement of the Constitution. (2) Legislation on the subject of suppression of immoral traffic does exist in a few States but the laws are neither uniform nor do they go far enough. In the remaining States there is no bar on the subject at all. (3) In the circumstances it is necessary and desirable that a Central law should be passed which will not only secure uniformity but also would be sufficiently deterrent for the purpose. But a special feature of the Bill is that it provides that no person or

authority other than the State Government shall establish or maintain any protective home except under a license issued by the State Government. This will check the establishment of homes which are really dens for prostitution.”

REPORT OF SELECT COMMITTEE: The Select Committee submitted “THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS BILL, 1956 (58A of 1956) along with its Report dated 20/11/1956 to the Lok Sabha on the 21st November, 1956. PRINCIPAL ACT The Suppression of Immoral Traffic in Women and Girls Bill, 1954 as amended by the Select Committee vide its Bill No.58 of 1956 and as passed by Parliament received the assent of the President and soon thereafter became an Act of Parliament under the Short title and Number “THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT, 1956 (104 of 1956)” on the 31st December, 1956. Sections 2 to 25 of the Act came into force in the whole of India on the 1st May, 1958, vide the Central Government’s Notification No.GSR 269 dated 14/4/1958. The Act was extended, - • to the Union Territory of Dadra and Nagar Haveli by Section 2/Sch. I of the Dadra Nagar Haveli (Laws) Regulation, 1963 (6 of 1963);

Section 1 (Chapter 1) PRELIMINARY THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 NO. 43 OF 2005 [13th September, 2005.]

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

Section 2 (Chapter 2) Short title, extent and commencement.

1. Short title, extent and commencement.-(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005. (2) It extends to the whole of India except the State of Jammu and Kashmir.(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 5 (Chapter 5) Definition of domestic violence.

3. Definition of domestic violence.- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it – (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person. Explanation I For the purposes of

this section,- (i) “physical abuse” means 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 aggrieved person and includes assault, criminal intimidation and criminal force; (ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman; (iii) “verbal and emotional abuse” includes- (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested. (iv) “economic abuse” includes- (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance; (b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and (c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household. Explanation II For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration. Section 7 (Chapter 7) Information to Protection Officer and exclusion of liability of informant. 4. Information to Protection Officer and exclusion of liability of informant.- (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer. (2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1). Section 8 (Chapter 8) Duties of police officers, service providers and Magistrate. 5. Duties of police officers, service providers and Magistrate A police officer, Protection Officer, service provider or Magistrate 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, shall inform the aggrieved person-(a) of her right to make an application for obtaining a relief by way of a protection order, an

order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;(b) of the availability of services of service providers;(c) of the availability of services of the Protection Officers;(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant: Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence. Section 9 (Chapter 9) Duties of shelter homes. 6. Duties of shelter homes If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home. Section 10 (Chapter 10) Duties of medical facilities. 7. Duties of medical facilities If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility. Section 11 (Chapter 11) Appointment of Protection Officers. 8. Appointment of Protection Officers.- (1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act. (2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed. (3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed. Section 12 (Chapter 12) Duties and functions of Protection Officers. 9. Duties and functions of Protection Officers.- (1) It shall be the duty of the Protection Officer- (a) to assist the Magistrate in the discharge of his functions under this Act; (b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area; (c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order; (d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made; (e) to maintain a list of all service providers providing legal aid or

counseling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate; (f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated; (g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place; (h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974); (i) to perform such other duties as may be prescribed. (2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall perform the duties imposed on him by the Magistrate and the Government by, or under, this Act..

Section 13 (Chapter 13) Service providers. 10. Service providers.- (1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act. (2) A service provider registered under sub-section (1) shall have the power to -(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place; (b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place; (c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place. (3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

Section 14 (Chapter 14) Duties of Government. 11. Duties of Government.- The Central Government and every State Government, shall take all measures to ensure that- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print

media at regular intervals; (b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act; (c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted; (d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

Section 16 (Chapter 16) Application to Magistrate.

12. Application to Magistrate.- (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act: Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider. (2) The relief sought for under subsection (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent: Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off. (3) Every application under subsection (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto. (4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court. (5) The Magistrate shall endeavour to dispose of every application made under subsection (1) within a period of sixty days from the date of its first hearing.

Section 17 (Chapter 17) Service of notice.

13. Service of notice.- (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt. (2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as

directed by the Magistrate unless the contrary is proved. Section 18 (Chapter 18) Counselling 14. Counselling.- (1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed.(2) Where the Magistrate has issued any direction under subsection (1), he shall fix the next date of hearing of the case within a period not exceeding two months. Section 19 (Chapter 19) Assistance of welfare expert. 15. Assistance of welfare expert In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions. Section 20 (Chapter 20) Proceedings to be held in camera. 16. Proceedings to be held in camera If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera. Section 21 (Chapter 21) Right to reside in a shared household. 17. Right to reside in a shared household.- (1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same. (2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law. Section 22 (Chapter 22) Protection orders. 18. Protection orders.- The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from- (a) committing any act of domestic violence; (b) aiding or abetting in the commission of acts of domestic violence; (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person; (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact; (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate; (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence; (g) committing any other act as specified in the protection order. Section 23 (Chapter 23) Residence orders. 19. Residence orders.- (1)

While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order – (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household; (b) directing the respondent to remove himself from the shared household; (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides; (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same; (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require: Provided that no order under clause (b) shall be passed against any person who is a woman. (2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person. (3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence. (4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly. (5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order. (6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties. (7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order. (8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

Section 24 (Chapter 24) Monetary reliefs. 20. Monetary reliefs.- (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,- (a) the loss of earnings; (b) the medical expenses; (c) the loss caused due to

the destruction, damage or removal of any property from the control of the aggrieved person; and (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force. (2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. (3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require. (4) The Magistrate shall send a copy of the order for monetary relief made under subsection (1) to the parties to the application and to the in charge of the police station within the local limits of whose jurisdiction the respondent resides. (5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1). (6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Section 25 (Chapter 25) Custody orders. 21. Custody orders Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent: Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

Section 26 (Chapter 26) Compensation orders. 22. Compensation orders In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

Section 27 (Chapter 27) Power to grant interim and ex parte orders. 23. Power to grant interim and ex parte orders.- (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper. (2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte

order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.. Section 28 (Chapter 28) Court to give copies of order free of cost. 24. Court to give copies of order free of cost.- The Magistrate shall, in all cases where he 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 police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider. Section 29 (Chapter 29) Duration and alteration of orders. 25. Duration and alteration of orders.- (1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge. (2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate. Section 30 (Chapter 30) Relief in other suits and legal proceedings. 26. Relief in other suits and legal proceedings.- (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act. (2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court. (3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief. Section 31 (Chapter 31) Jurisdiction. 27. Jurisdiction.- (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or (b) the respondent resides or carries on business or is employed; or (c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act. (2) Any order made under this Act shall be enforceable throughout India. Section 32 (Chapter 32) Procedure. 28. Procedure.- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974). (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under

sub-section (2) of section 23. Section 33 (Chapter 33) Appeal. 29. Appeal There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later. Section 35 (Chapter 35) Protection Officers and members of service providers to be public servants. 30. Protection Officers and members of service providers to be public servants The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860). Section 36 (Chapter 36) Penalty for breach of protection order by respondent. 31. Penalty for breach of protection order by respondent.- (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both. (2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions. Section 37 (Chapter 37) Cognizance and proof. 32. Cognizance and proof.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and nonbailable. (2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused. Section 38 (Chapter 38) Penalty for not discharging duty by Protection Officer. 33. Penalty for not discharging duty by Protection Officer If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both. Section 39 (Chapter 39) Cognizance of offence committed by Protection Officer. 34. Cognizance of offence committed by Protection Officer No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf. Section 40 (Chapter 40) Protection of action taken in good faith. 35. Protection of action taken in good faith No suit, prosecution or other legal proceeding shall lie against the

Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder. Section 41 (Chapter 41) Act not in derogation of any other law. 36. 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. Section 42 (Chapter 42) Power of Central Government to make rules. 37. Power of Central Government to make rules.- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- (a) the qualifications and experience which a Protection Officer shall possess under subsection (2) of section 8; (b) the terms and conditions of service of the Protection Officers and the other officers subordinate to him, under sub-section (3) of section 8; (c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9; (d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9; (e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9; (f) the other duties to be performed by the Protection Officer under clause (i) of subsection (1) of section 9; (g) the rules regulating registration of service providers under sub-section (1) of section 10; (h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section; (i) the means of serving notices under sub-section (1) of section 13; (j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13; (k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14; (l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23; (m) any other matter which has to be, or may be, prescribed. (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously

done under that rule.— SD/- BRAHM AVTAR AGRAWAL, Addl. Secretary to the Govt. of India.

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

NO. 43 OF 2005[13th September, 2005.] An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:- Section 2 (Chapter 2) Short title, extent and commencement. 1. Short title, extent and commencement.-(1) This Act may be called the Protection of Women from Domestic Violence Act, 2005. (2) It extends to the whole of India except the State of Jammu and Kashmir.(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Section 5 (Chapter 5) Definition of domestic violence. 3. Definition of domestic violence.- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it – (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person. Explanation I For the purposes of this section,- (i) “physical abuse” means 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 aggrieved person and includes assault, criminal intimidation and criminal force; (ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman; (iii) “verbal and emotional abuse” includes- (a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested. (iv) “economic abuse” includes- (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities

for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance; (b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and (c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household. Explanation II For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes “domestic violence” under this section, the overall facts and circumstances of the case shall be taken into consideration. Section 7 (Chapter 7) Information to Protection Officer and exclusion of liability of informant. 4. Information to Protection Officer and exclusion of liability of informant.- (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer. (2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1). Section 8 (Chapter 8) Duties of police officers, service providers and Magistrate. 5. Duties of police officers, service providers and Magistrate A police officer, Protection Officer, service provider or Magistrate 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, shall inform the aggrieved person-(a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;(b) of the availability of services of service providers;(c) of the availability of services of the Protection Officers;(d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);(e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant: Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence. Section 9 (Chapter 9) Duties of shelter homes. 6. Duties of shelter homes If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

Section 10 (Chapter 10) Duties of medical facilities. 7. Duties of medical facilities If an aggrieved person or, on her behalf a Protection Officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility. Section 11 (Chapter 11) Appointment of Protection Officers. 8. Appointment of Protection Officers.- (1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act. (2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed. (3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed. Section 12 (Chapter 12) Duties and functions of Protection Officers. 9. Duties and functions of Protection Officers.- (1) It shall be the duty of the Protection Officer- (a) to assist the Magistrate in the discharge of his functions under this Act; (b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area; (c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order; (d) to ensure that the aggrieved person is provided legal aid under the Legal Services Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made; (e) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate; (f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated; (g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place; (h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974); (i) to perform such other duties as may be prescribed. (2) The Protection Officer shall be under the control and supervision of the Magistrate, and shall

perform the duties imposed on him by the Magistrate and the Government by, or under, this Act..

Section 13 (Chapter 13) Service providers.

10. Service providers.- (1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act. (2) A service provider registered under sub-section (1) shall have the power to -(a) record the domestic incident report in the prescribed form if the aggrieved person so desires and forward a copy thereof to the Magistrate and the Protection Officer having jurisdiction in the area where the domestic violence took place; (b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the local limits of which the domestic violence took place; (c) ensure that the aggrieved person is provided shelter in a shelter home, if she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the police station within the local limits of which the domestic violence took place. (3) No suit, prosecution or other legal proceeding shall lie against any service provider or any member of the service provider who is, or who is deemed to be, acting or purporting to act under this Act, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Act towards the prevention of the commission of domestic violence.

Section 14 (Chapter 14) Duties of Government.

11. Duties of Government.- The Central Government and every State Government, shall take all measures to ensure that- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals; (b) the Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act; (c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted; (d) protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

Section 16 (Chapter 16) Application to Magistrate.

12. Application to Magistrate.- (1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act: Provided that before

passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider. (2) The relief sought for under subsection (1) may include a relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent: Provided that where a decree for any amount as compensation or damages has been passed by any court in favour of the aggrieved person, the amount, if any, paid or payable in pursuance of the order made by the Magistrate under this Act shall be set off against the amount payable under such decree and the decree shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, be executable for the balance amount, if any, left after such set off. (3) Every application under subsection (1) shall be in such form and contain such particulars as may be prescribed or as nearly as possible thereto. (4) The Magistrate shall fix the first date of hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the court. (5) The Magistrate shall endeavour to dispose of every application made under subsection (1) within a period of sixty days from the date of its first hearing.

Section 17 (Chapter 17) Service of notice. 13. Service of notice.- (1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt. (2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

Section 18 (Chapter 18) Counselling. 14. Counselling.- (1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counselling with any member of a service provider who possess such qualifications and experience in counselling as may be prescribed. (2) Where the Magistrate has issued any direction under subsection (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

Section 19 (Chapter 19) Assistance of welfare expert. 15. Assistance of welfare expert In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

Section 20 (Chapter 20) Proceedings to be held in

camera. 16. Proceedings to be held in camera If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera. Section 21 (Chapter 21) Right to reside in a shared household. 17. Right to reside in a shared household.- (1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same. (2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law. Section 22 (Chapter 22) Protection orders. 18. Protection orders.- The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from- (a) committing any act of domestic violence; (b) aiding or abetting in the commission of acts of domestic violence; (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person; (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact; (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate; (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence; (g) committing any other act as specified in the protection order. Section 23 (Chapter 23) Residence orders. 19. Residence orders.- (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order – (a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household; (b) directing the respondent to remove himself from the shared household; (c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides; (d) restraining the respondent from alienating or disposing off the shared household or encumbering the same; (e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or (f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in

the shared household or to pay rent for the same, if the circumstances so require: Provided that no order under clause (b) shall be passed against any person who is a woman. (2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person. (3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence. (4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly. (5) While passing an order under sub-section (1), sub-section (2) or sub-section (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist her or the person making an application on her behalf in the implementation of the order. (6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties. (7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order. (8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or any other property or valuable security to which she is entitled to.

Section 24 (Chapter 24) Monetary reliefs. 20. Monetary reliefs.- (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,- (a) the loss of earnings; (b) the medical expenses; (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force. (2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. (3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require. (4) The Magistrate shall send a copy of the order for monetary relief made under subsection (1) to the parties to the application and to the officer in charge of the police station within the local limits of whose jurisdiction the respondent resides. (5) The respondent shall pay the

monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1). (6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

Section 25 (Chapter 25) Custody orders. 21. Custody orders Notwithstanding anything contained in any other law for the time being in force, the Magistrate may, at any stage of hearing of the application for protection order or for any other relief under this Act grant temporary custody of any child or children to the aggrieved person or the person making an application on her behalf and specify, if necessary, the arrangements for visit of such child or children by the respondent: Provided that if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

Section 26 (Chapter 26) Compensation orders. 22. Compensation orders In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

Section 27 (Chapter 27) Power to grant interim and ex parte orders. 23. Power to grant interim and ex parte orders.- (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper. (2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent..

Section 28 (Chapter 28) Court to give copies of order free of cost. 24. Court to give copies of order free of cost.- The Magistrate shall, in all cases where he 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 police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

Section 29 (Chapter 29) Duration and alteration of orders. 25. Duration and alteration of orders.- (1) A protection order made under section 18 shall be in force till the aggrieved person applies for discharge. (2) If the

Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

Section 30 (Chapter 30) Relief in other suits and legal proceedings. 26. Relief in other suits and legal proceedings.- (1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act. (2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court. (3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

Section 31 (Chapter 31) Jurisdiction. 27. Jurisdiction.- (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or (b) the respondent resides or carries on business or is employed; or (c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act. (2) Any order made under this Act shall be enforceable throughout India.

Section 32 (Chapter 32) Procedure. 28. Procedure.- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974). (2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.

Section 33 (Chapter 33) Appeal. 29. Appeal There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

Section 35 (Chapter 35) Protection Officers and members of service providers to be public servants. 30. Protection Officers and members of service providers to be public servants The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Section 36 (Chapter 36) Penalty for breach of protection order by respondent. 31. Penalty for breach of protection order by respondent.- (1) A breach of protection order, or of an interim protection order, by the

respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both. (2) The offence under sub-section (1) shall as far as practicable be tried by the Magistrate who had passed the order, the breach of which has been alleged to have been caused by the accused.(3) While framing charges under sub-section (1), the Magistrate may also frame charges under section 498A of the Indian Penal Code (45 of 1860) or any other provision of that Code or the Dowry Prohibition Act, 1961 (28 of 1961), as the case may be, if the facts disclose the commission of an offence under those provisions. Section 37 (Chapter 37) Cognizance and proof. 32. Cognizance and proof.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and nonbailable. (2) Upon the sole testimony of the aggrieved person, the court may conclude that an offence under sub-section (1) of section 31 has been committed by the accused. Section 38 (Chapter 38) Penalty for not discharging duty by Protection Officer. 33. Penalty for not discharging duty by Protection Officer If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both. Section 39 (Chapter 39) Cognizance of offence committed by Protection Officer. 34. Cognizance of offence committed by Protection Officer No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf. Section 40 (Chapter 40) Protection of action taken in good faith. 35. Protection of action taken in good faith No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder. Section 41 (Chapter 41) Act not in derogation of any other law. 36. 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. Section 42 (Chapter 42) Power of Central Government to make rules. 37. Power of Central Government to make rules.- (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- (a) the qualifications and experience which a Protection Officer shall possess under subsection (2) of section 8; (b) the terms and conditions of service of the Protection Officers and the other

officers subordinate to him, under sub-section (3) of section 8; (c) the form and manner in which a domestic incident report may be made under clause (b) of sub-section (1) of section 9; (d) the form and the manner in which an application for protection order may be made to the Magistrate under clause (c) of sub-section (1) of section 9; (e) the form in which a complaint is to be filed under clause (d) of sub-section (1) of section 9; (f) the other duties to be performed by the Protection Officer under clause (i) of subsection (1) of section 9; (g) the rules regulating registration of service providers under sub-section (1) of section 10; (h) the form in which an application under sub-section (1) of section 12 seeking reliefs under this Act may be made and the particulars which such application shall contain under sub-section (3) of that section; (i) the means of serving notices under sub-section (1) of section 13; (j) the form of declaration of service of notice to be made by the Protection Officer under sub-section (2) of section 13; (k) the qualifications and experience in counselling which a member of the service provider shall possess under sub-section (1) of section 14; (l) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 23; (m) any other matter which has to be, or may be, prescribed. (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.— SD/- BRAHM AVTAR AGRAWAL, Addl. Secretary to the Govt. of India.