

PROJET DE LOI

ENTITLED

The Separation, Maintenance and Affiliation Proceedings (Alderney) (Amendment) Law, 2014

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 17th September, 2014 have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

Amendment of the Law of 1964.

1. (1) The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964, as amended^a, is amended as follows.

(2) In the Arrangement of Sections, insert the following immediately after the references to Part IV -

"PART IVA DOMESTIC VIOLENCE

- 24A. Domestic violence orders.
- 24B. Arrest for breach of domestic violence order.
- 24C. Unmarried couples."

(3) Immediately after Part IV insert the following Part -

"PART IVA

DOMESTIC VIOLENCE

Domestic violence orders.

24A. (1) On the application of either party to a marriage, the Court may grant an order (a "**domestic violence order**") requiring the other party to the marriage ("**the respondent**") -

- (a) not to molest or threaten to molest the applicant, any child of the family or any child living with the applicant,
- (b) to leave, or not to enter, the matrimonial home or any part thereof, or any other specified premises, or any specified area,
- (c) to permit any person described in paragraph (a) to enter and remain in the matrimonial home or any part thereof,
- (d) not to do or omit to do any other thing specified in the order the doing or omission of which is, in the Court's opinion, likely or calculated to cause harm or distress to any person described in paragraph (a),
- (e) not to incite or assist any other person to do anything which, by virtue of the order, the respondent could not lawfully do.

^a Ordres en Conseil Vol. XIX, p. 241 and Vol. XXIV, p. 150; Guernsey Ordinance No. VII of 2010; Alderney Ordinance No. V of 1972; No. II of 1979 and No. VII of 1991.

(2) A domestic violence order -

- (a) may be made subject to such conditions as the Court considers necessary or expedient to effect the purposes of the order,
- (b) may be made for such term as may be specified, and
- (c) may contain all or any of the requirements set out in paragraphs (a) to (e) of subsection (1).

(3) Except insofar as it affects rights of occupation, a domestic violence order does not affect any estate or interest in the matrimonial home.

(4) The Court may by order vary or revoke a domestic violence order on the application of either party to the marriage in question.

Arrest for breach of domestic violence order.

24B. (1) The Court may attach a power of arrest to a domestic violence order if it considers it necessary to do so for the protection of any person described in section 24A(1)(a).

(2) Where a power of arrest is attached to a domestic violence order, an officer of police may arrest the respondent if he has reasonable cause to suspect that the respondent has disobeyed the order in any respect.

(3) Where a power of arrest is not attached to a domestic violence order a Jurat may, if satisfied by information on oath that the respondent has disobeyed the order in any respect, direct his arrest by an officer of police.

(4) A person arrested under subsection (2) or (3) -

- (a) shall be brought before the court within 24 hours of his arrest, and
- (b) shall not be released within that period except by direction of the Court,

and nothing in this section authorises his detention beyond that period.

(5) In reckoning a period of 24 hours for the purposes of subsection (4), no account shall be taken of -

- (a) a Saturday, Sunday, Good Friday or Christmas Day,
- (b) a day appointed as a public holiday by Ordinance of the States, or
- (c) a day appointed as a day of public thanks-giving or public mourning.

Unmarried couples.

24C. (1) Sections 24A and 24B apply in relation to -

- (a) a man and woman who live or have lived together in the same household as husband and wife, and

- (b) any person who is associated with another person and who live or have lived together in the same household,

as they apply in relation to the parties to a marriage, and references in those sections to a party to a marriage, to a child of the family and to the matrimonial home shall be construed accordingly.

(2) For the purposes of subsection (1), a person is associated with another person if, in relation to that other person -

- (a) they are, or have been civil partners of each other, or
- (b) they are cohabitants, or former cohabitants.

(3) For the purposes of this section -

"civil partner" means a person who has registered as the civil partner of another person under the Civil Partnership Act 2004, or who is treated under that Act as having formed a civil partnership by virtue of having registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled, and

"cohabitants" means two people who are living together as if they were civil partners."

Interpretation.

2. (1) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law.

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

3. This Law may be cited as the Separation, Maintenance and Affiliation Proceedings (Alderney) (Amendment) Law, 2014.

^b Ordres en Conseil Vol. XIII, p. 355.