



# DOMESTIC VIOLENCE ACT, 2018



COMYN  
KELLEHER  
TOBIN

Comyn Kelleher Tobin LLP is a limited liability partnership regulated by the Legal Services Regulatory Authority..

CORK 021 4626900 | DUBLIN 01 8733751 | [www.ckt.ie](http://www.ckt.ie)

DOMESTIC VIOLENCE ACT, 2018

## INTRODUCTION

The **Domestic Violence**

**Act, 2018** came into law on the 1st of January 2019 and replaced the 1996 Act.

It represents an important and significant update of domestic violence legislation, broadens the categories of who is entitled to apply for certain Orders and makes provision for vulnerable witnesses.

The Act introduces the offence of Coercive Control into Irish legislation. The Act also requires Courts to increase sentences when the convicted has committed particular offences against those they are/were in a relationship with.

## COERCIVE CONTROL

The Act introduces the criminal offence of coercive control. A person commits this offence where he or she knowingly and persistently engages in behaviour that is controlling or coercive that has a serious effect on their spouse/civil partner/person with whom they were/are in an intimate relationship and a reasonable person would consider likely to have a serious effect on a relevant person. Serious effect includes the fear of violence or serious alarm or distress that substantially adversely impacts day-to-day life. This offence is prosecuted by the Gardaí / Director of Public Prosecution in either the District Court or the Circuit Court.

# Applying for an ORDER

### APPLICATION

**A person applies to the District Court for a Protection Order or Interim Barring Order. Other party not present. Everything put in writing.**

*An Interim Barring Order is granted only if the Court believes there is an immediate risk of significant harm to the applicant or a dependent person. An Interim Barring Order can be granted for up to eight working days and will only be granted usually if there is violence.*

### SUMMONS

**A Summons for a Safety Order and / or a Summons for Barring Order are served by ordinary prepaid post.**

### HEARING

**A Hearing for a Safety Order and / or Barring Order. Protection Order or Interim Barring Order now end.**

*Sometimes a Court will adjourn the hearing and extend the Protection Order or Interim Barring until the next hearing.*

### ORDER GRANTED

**Safety Order can be granted for up to 5 years; Barring Order for up to 3 years.**

# Who can APPLY?

## Protection Order and Safety Order

- Spouse
- Civil Partner
- Was in an intimate relationship with the respondent prior to the application for the safety order,
- Parent of the respondent and the respondent is over 18 and is not, in relation to the parent, a dependent person.
- Being of full age, resides with the respondent in a relationship the basis of which is not primarily contractual (eg family members), or Is a parent of a child whose other parent is the respondent.

## Interim Barring Order and Barring Order

- Spouse
- Civil Partner
- Has lived with the respondent in an intimate relationship prior to the application for the barring order, or,
- Is a parent of the respondent and the respondent is over 18 and is not, in relation to the parent, a dependent person.
- Applicant must have same or greater ownership of the property, i.e. owner, joint owner, joint tenant. If the Applicant does not, may be open to ask for Emergency Barring Order. Has same impact as an Interim Barring Order.

DOMESTIC  
VIOLENCE ACT,  
2018



# Effects of ORDERS

These Orders do not prohibit people from being in the same place at the same time eg school events, religious events, family welfare conferences, child protection case conferences etc.

## Protection Order and Safety Order

- Prohibits using or threatening to use violence against, molesting or putting in fear, the applicant or the dependent person;
- If he or she is residing at a place other than the place where the applicant or that dependent person resides, prohibits watching or besetting a place where the applicant or the dependent person resides;
- Prohibits following or communicating (including by electronic means) with the applicant or the dependent person.

## Interim Barring Order and Barring Order

- Directs the respondent, if residing at a place where the applicant or the dependent person resides, to leave the place, and;
- Prohibits the respondent from entering the place;
- Prohibits using or threatening to use violence against, molesting or putting in fear, the applicant or a dependent person;
- Prohibits attending at or in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides;
- Prohibits following or communicating (including by electronic means) with the applicant or a dependent person.

## SECTION 11 AND 12

### Section 11

Tusla - The Child and Family Agency (CFA) can apply for the above Orders on behalf of an Applicant.

### Section 12

If someone has applied for any of the above Orders and while hearing the case the Court forms the view that a Care Order or Supervision Order may be warranted, the Court can adjourn the proceedings and ask the CFA to investigate the situation. The Court can grant a Supervision Order pending the outcome of the CFA involvement.

### Section 12

The CFA then has to consider whether to apply for a Care Order or Supervision Order, what assistance/service is required by the child's family and what other action is required. If the CFA decide not to apply for a Care Order or Supervision Order, the Court must be told of the reasons behind that decision, what services/assistance have been and will be provided to the child and any other actions that have been taken or will be taken to support that child.



## MEET THE TEAM



**DENISE KIRWAN**

Partner

T +353 21 4626900

E [denise.kirwan@ckt.ie](mailto:denise.kirwan@ckt.ie)



**SINEAD FITZGERALD**

Partner

T +353 21 4626900

E [sinead.fitzgerald@ckt.ie](mailto:sinead.fitzgerald@ckt.ie)



**DAVID TAYLOR**

Solicitor

T +353 (0)21 4626900

E [david.taylor@ckt.ie](mailto:david.taylor@ckt.ie)



**MARY BOLAND**

Solicitor

T +353 (0)21 4626900

E [mary.boland@ckt.ie](mailto:mary.boland@ckt.ie)



**MICHELLE CRONIN**

Solicitor

T +353 (0)21 4626900

E [michelle.cronin@ckt.ie](mailto:michelle.cronin@ckt.ie)



**CLARE DALY**

Solicitor

T +353 (0)21 4626900

E [clare.daly@ckt.ie](mailto:clare.daly@ckt.ie)

### CORK

2 George's Quay,  
Cork, T12 TR2A,  
Ireland.

T: +353 (0)21 4626900

F: +353 (0)21 4223872

[ckt@ckt.ie](mailto:ckt@ckt.ie)

### DUBLIN

Lincoln House,  
Lincoln Lane, Smithfield  
Dublin 7, D07 Y75P, Ireland.

T: +353 (0)1 8745929

F: +353 (0)1 8727480

[ckt@ckt.ie](mailto:ckt@ckt.ie)



**COMYN  
KELLEHER  
TOBIN**

Comyn Kelleher Tobin LLP is a limited liability partnership regulated by the Legal Services Regulatory Authority..

CORK 021 4626900 | DUBLIN 01 8733751 | [www.ckt.ie](http://www.ckt.ie)