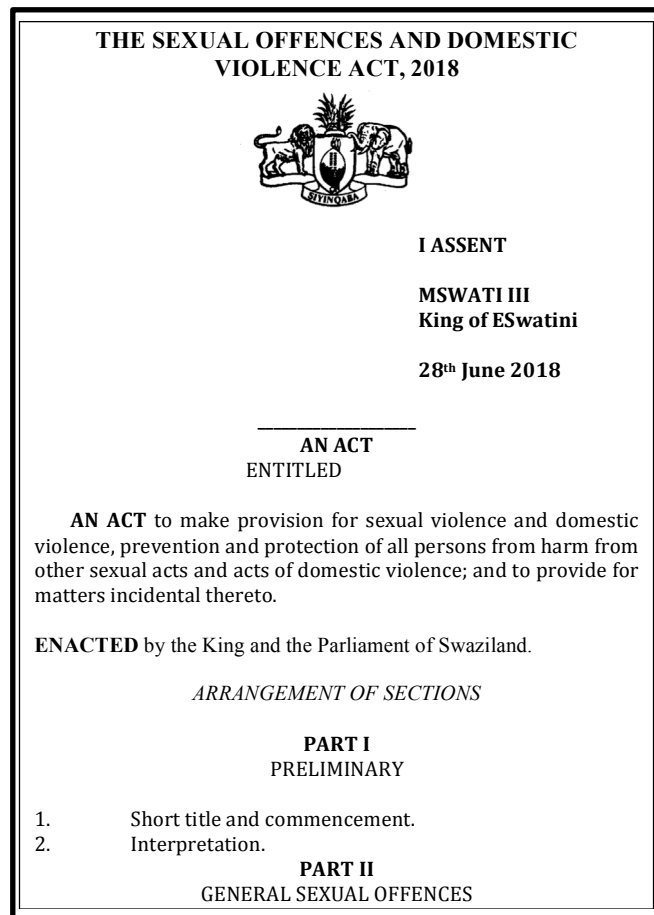


What is the Sexual Offences and Domestic Violence (SODV) Act, 2018? Why is it important?

The SODV Act 2018 is a new law passed by Parliament in June 2018. The law aims to help the Kingdom of eSwatini deal with the high rate of gender-based violence (GBV) and abuse in the country.

It was important to make this new law because:

- ➔ the old laws were very outdated and did not cover all forms of GBV, or the new ways in which it is now happening
- ➔ victims/survivors were not properly supported because the old laws did not take account of the trauma and effects of the violence experienced by them
- ➔ under the old laws the sentences given were too light when looking at the seriousness of the abuse



The Act therefore aims to strengthen the response to GBV by contributing to:

- Preventing abuse
- Increasing the reporting of abuse
- Making sure victims/survivors are properly cared for when abuse is reported and supported during and after a court case on the abuse
- Making sure abusers are punished
- Strengthening the different structures that deal with abuse cases



This booklet explains in simple language the different offences and other important sections that are in the new law.

- This will help people understand the behaviour that is not acceptable under the law, to recognise it when it happens to them or to someone else, and to report it.
- It will also help people understand the punishments that the courts may give for breaking the law, so that people are discouraged from treating others in an abusive way.



Important Things To Note About the SODV Act



➔ It **protects and helps everyone**: girls, boys, women and men.

It **punishes anyone who abuses** another person, whether the abuser is male or female.



➔ **It raises the age of consent for sexual activity to 18**

- The law states that anyone under the age of 18 is a child.
- Therefore, it is impossible under the law for anyone under that age to agree to do any sexual activity with anyone.
- This means that doing anything sexual with anyone under 18 years is automatically a crime.
- It also means a person cannot defend themselves by saying a child "agreed" to a sexual activity.

It is a crime for a person to marry a child, or to live with a child as if they are married.

Everyone has a duty to report abuse (section 70)



The law makes it a duty for everyone to report to the police or relevant structure if they **see abuse**; **hear of abuse**; or if they **suspect abuse** is happening, or will happen to someone.

Not reporting abuse is a crime.
Sentence: a fine up to E1 000 fine; jail up to 3 months; or both.

It is also a crime to force someone not to report abuse, or to withdraw a report of abuse they have made to the police. (section 71)

Anyone who does this can be sentenced to a fine of up to E25 000; or up to 5 years in jail; or both.

➔ **Special protection for children and persons with disabilities**

The law has special sections that deal with certain types of abuse against children and against persons who are physically or mentally disabled.

Increased sentences

The Act increases sentences for all abuse crimes, and gives even harsher sentences for abuses against children.



A sentence is the punishment that is given by a court where a person is found guilty of doing any of the crimes in the Act.



National Register for Sex Offenders

The Act says there will be a National Register for Sex Offenders. This will be a record of people who have been found guilty of doing sexual crimes.

A person who has been found guilty of doing a sexual crime is called a Sex Offender

- The Register will have the sex offender's personal details, information of the sexual crime that the person did, and the sentence that was given by the court.
- A person who is registered as a sex offender will be banned from being employed in certain types of work, and from running certain types of businesses.
- The law also makes limits on duties that can be done by sex offenders where caring for children, or persons with disabilities is involved.

Training persons who have duties under the Act (section 191)

The law states that any person who is given any duty to do in the Act should be trained on the different issues the Act is about. This includes the different types of violence; how to work with victims/survivors of sexual offences and domestic violence; and how to interview children.



SODV Act cases are urgent (section 192)

The police and the courts have a duty to deal urgently with cases involving the crimes in the Act.

WHAT FOLLOWS ARE SIMPLE EXPLANATIONS OF:

1. OFFENCES (CRIMES) UNDER THE SODV ACT, 2018
2. SENTENCES A COURT MAY GIVE FOR OFFENCES
3. OTHER IMPORTANT SECTIONS IN THE LAW

PART II: General Offences

RAPE (section 3)

What is the crime of rape?

Rape is when a person does a sexual act to another person (the victim/survivor) when they have not agreed.

➔ Rape can be done by a man or a woman.

➔ A victim/survivor of rape can be a woman or a man.

A "*sexual act*" is when:

- i. a person puts (inserts) their private parts into the private parts, anus or other bodily opening of another person; or
- ii. a person puts (inserts) any other part of their body, or an object into the private parts, anus or other bodily opening of another person, for the sexual pleasure of the person putting in the body part or object, or the sexual pleasure of someone else.

It does not matter how much the private part, other body part or object is put into the private parts, anus or other bodily opening of the other person.

If a person does a sexual act to another person under any of the following circumstances, the law states that the other person has not agreed to it. Therefore, the sexual act is unlawful and is taken to be rape:

1. Coercion

This is when a person puts pressure on the other person in any of the following ways in order to do a sexual act to them:

- a. uses force against the other person, the other person's property, or someone else
- b. threatens to harm the other person or someone else, the other person's property or someone else's property
- c. abuses or takes advantage of a position of power to demand a sexual act from another person such that the other person is not able to show that they refuse or do not want to do it.

2. False pretences or fraudulent means

This is when the other person is made to believe something that is not true when the sexual act is done to them as follows:

- a. the person is made to believe they are doing a sexual act with a certain person, when the person they are doing the act with, is actually someone else
- b. the person is made to believe that what they are doing is not a sexual act, but that it is something else

3. Incapable of appreciating the nature of the sexual act in law

This is when the other person is not able to understand exactly what is happening when a sexual act is being done to them. The law says a person does not have this understanding if that person:

- a. is asleep or unconscious; or
- b. has taken any medicine, drug, alcohol or any substance that affects their awareness and ability to make sound decisions; or
- c. is mentally disabled; or
- d. is below 18 years of age

4. Duress

This is when the other person is put under any form of pressure so that a sexual act can be done to them.

5. Psychological oppression

This is when the other person is put under mental pressure so that a sexual act can be done to them.

6. Fear of violence

This is when the other person is made to be afraid that something violent will be done to them if they do not participate in the sexual act.

SENTENCES



- There are **no fines for rape** - only prison sentences.
- A sentence given for rape cannot be postponed.
- Sentences for rape take into account the age of the victim/survivor, the circumstances in which the rape took place and if this is the first time the abuser rapes someone or if they have done it

Aggravating circumstances means where there are things that make the doing of the crime worse (such as the use of a weapon like a knife) and can increase the sentence given by the court



Where there are no aggravating circumstances:

- If the **victim/survivor is 0-14 years of age**: **jail up to 25 years**, if it is the first time the person is found guilty of rape; **jail up to to 35 years**, if it is not the first time
- If the **victim/ survivor is 15-17 years of age**: **jail up to 20 years** if it is the first time the person is found guilty of rape; **jail up to 26 years** if it is not the first time
- If the **victim/ survivor is 18 years of age or above**: **jail up to 18 years** if it is the first time the person is found guilty of rape; **jail up to 25 years** if it is not the first time

Where there are **aggravating** circumstances:

- If the **victim/ survivor is 0-10 years of age**: **jail up to 30 years**, if it is the first time the person is found guilty; **jail up to 40 years**, if it is not the first time.
- If the **victim/ survivor is 11-17 years of age**: **jail up to 25 years**, if it is the first time the person is found guilty; **jail up to 35 years**, if
- If the **victim/ survivor is 18 years of age or above**: **jail up to 20 years** if it is the first the person is found guilty; **jail up to 30 years** if it is not the first time.

INCEST (section 4)



What is the crime of Incest?

Incest is when a person does or tries to do an act of **sexual penetration** with any of these close relatives: child, brother, sister, mother, father, grandmother, or grandfather.

(This includes where the relationship is half, step, or because of adoption: for example, a half-brother, step-sister or adopted child.)



Incest is a crime even if the people involved agreed to do it.

"Sexual penetration" is when:

- a person puts their private parts into the private parts, anus, mouth or other bodily opening of another person;
- a person puts any other part of their body, or any object, including a body part of an animal into the private parts, anus, or other bodily opening of another person;
- a person puts the private parts of an animal into the mouth of another person.

It does not matter how far the genital organs, other body part or object enter into the private parts, anus, mouth or any other bodily opening of the other person.

SENTENCES



If the victim/survivor is **0-13 years of age: jail up to 25 years**



If the victim/survivor is **14-17 years of age: jail up to 20 years**



If the victim/survivor is **18 years of age and above: a fine of up to £50 000, or jail up to 10 years, or both**



If the two people agreed to do the incest, a fine of up to £20 000 or jail up to 4 years, or both



Where the person accused of incest is a child, the Director of Public Prosecutions (DPP) has to give written permission about starting the prosecution of the case.



A person can defend themselves by proving that they were forced by someone else to do the incest.

Prosecuting a case means charging a person with a crime and putting that person on trial.

The **DPP** is the head of the government department of lawyers that prosecutes people accused of crimes.

SEXUAL ASSAULT OFFENCES (sections 5-8)



Sexual assault

This is when a person does a **sexual violation** to another person without that other person's consent

Sentence: fine up to E30 000;
jail up to 15 years; or both



Inspiring belief of sexual assault

This is when a person makes another person believe that that other person will be sexually assaulted.

Sentence: fine up to E20 000;
jail up to 10 years; or both



Compelled sexual assault

This is when a person forces someone else to do an act of sexual violation with another person, without the consent of both people.

Sentence: fine up to E20 000;
jail up to 10 years; or both



Compelled self-sexual assault

This is when a person forces another person to do any sexual activity to themselves such as sexually excite themselves, penetrate their own private parts, anus or other bodily opening in any way; or engage in bestiality (sexual activity with an animal).

Sentence: fine up to E30 000; jail up to 15 years; or both

A "sexual violation" is act that **does not cause sexual penetration** but results in the following:

- i. Direct or indirect contact between the private parts, anus, breasts (in the case of a female) of a person with any part of the body of another person or an animal; or any object, including an object that looks like, or is similar to the private parts or anus of a person or animal.
- ii. Direct or indirect contact between the mouth of a person and the mouth, private parts, anus, or breasts of another person, and any part of the body of the other person that can be used for sexual penetration or to make someone sexually excited.
- iii. Direct or indirect contact between the mouth of another person and the private parts or anus of an animal.
- iv. Using hands to sexually excite the private parts of a person (masturbation)
- v. Putting in any object that looks like or is similar to the private parts of a person or an animal into another person's mouth.

UNLAWFULLY ADMINISTERING A SUBSTANCE (section 9)



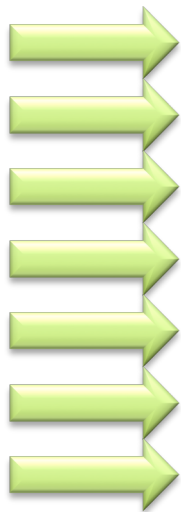
This is when a person gives or makes another person take something, without their agreement, in order to overpower that person, or to disturb that person's awareness and ability to make decisions, because they want to do a sexual activity with that person, or let someone else do sexual activities on that person.

Sentence: fine up to E20 000; jail up to 10 years; or both

UNLAWFUL STALKING (sections 10-12)



Unlawful stalking is when someone behaves in one or more of the following ways towards another person **such that the other person becomes worried or afraid:**



- i. following, hanging around, watching or approaching the other person;
- ii. contacting the other person in any way, including by phone, email or using technology;
- iii. hanging around, watching, or going near or into a place where the other person lives, works or visits;
- iv. making sure the other person finds or sees material that is vulgar or makes that person feel insulted by giving it to them directly, or leaving it in a place where they will see it
- v. doing something to scare, harass or threaten the other person, whether using violence or not
- vi. acting violently or threatening to be violent towards the property of any person, including the property of the stalker



The behaviour can happen once, but last a long time, or it can happen at different times. In both cases, the behaviour can either be the same action or different actions.



It does not matter whether the person who is doing the stalking wants the other person to know that they are being stalked by them; or whether the stalker mistakenly thinks the person they are stalking is someone else.

Sentence: fine up to £20 000; jail up to 10 years; or both



Actions that are not unlawful stalking

A person is *not* taken to be unlawfully stalking when:

- ➔ his or her behaviour is reasonable as part of their official work
- ➔ his or her behaviour is reasonable for a person who wants to give or get information from the other person that they have a right to give or get
- ➔ his or her behaviour is reasonable in relation to proposing a romantic relationship to the other person



How can someone protect themselves against a stalker?

If a person believes that they are being stalked, she or he can apply to court for a **Restraining Order**. This is an Order given by the court to protect a stalked person. The Order tells the suspected stalker to stop his or her behaviour.

- ➔ A prosecutor or any other concerned person in the case can also apply for a **Restraining Order** on behalf of the stalked person.
- ➔ A magistrate/judge can also decide to give a **Restraining Order** after hearing all the evidence in the case, if he or she believes there is a good reason to do so, even if the person accused of stalking is not found guilty.
- ➔ A court can decide to change or cancel a **Restraining Order** at any time.


A person who continues stalking another person even though they know there is a **Restraining Order** against them commits a crime.





Sentence: fine up to £25 000; jail up to 5 years; or both

PART III: Commercial Sexual Activities

COMMERCIAL SEXUAL EXPLOITATION OFFENCES (sections 13-14)





 **Commercial sexual exploitation** is when a person does any of the following actions to another person, in exchange for money, or any other type of payment or favour:

-  Makes the other person agree to let another person do sexual acts or sexual violations with, or on them
-  Offers or arranges for the other person, or makes an agreement with them to be available to do sexual acts, or sexual violations with someone else
-  Arranges or allows someone to do sexual acts, or sexual violations with that person's child, or a child that the person is caring for
-  Holds another person, using threat, pressure, lies, force, or abuse of power so that sexual acts or sexual violations can be done with or on that person

 It does not matter whether the money or other type of payment or favour is made to the person making the arrangements for these activities, or to someone else.

Sentence: fine up to E100 000; jail up to 20 years; or both
Where the victim is a child, the sentence may be jail up to 25 years

 **Promoting commercial sexual exploitation** is also a crime. A person promotes commercial sexual exploitation when he or she:

-  prints or produces any information that aims to advertise or arrange any activity of commercial sexual exploitation
-  advertises or encourages commercial sexual exploitation, or similar activities between two or more people

Sentence: fine up to E50 000; jail up to 10 years
Where the victim is a child, the sentence may be jail up to up to 25 years



PROSTITUTION (sections 15-17)

Prostitution is when a person, in exchange for money or any other form of payment does or offers to do any of the following actions:

→ sexual activities with another person, including sexual intercourse, a sexual act, masturbation, or using the mouth of the person on the private parts or anus of another person (oral sex)

→ any other activity where someone is used for the sexual pleasure of another person. It does not matter whether the arrangement for prostitution was offered by the person doing the sexual activity, or by someone else. It also does not matter that the payment will be made to the person doing the sexual activity, or to someone else.

PROCURING PROSTITUTION

A person who gets another person to do prostitution faces **Sentence of a fine up to E50 000; jail up to 15 years; or both.**

Where the victim is a child, the person faces **Sentence up to 20 years in jail.**

A person who receives money or any other type of payment or favour as a result of another person doing sexual acts or sexual violations, faces **Sentence of a fine up to E50 000; jail up to 15 years; or both.**

- A child cannot be charged with this crime.

BENEFITTING FROM PROSTITUTION

LIVING FROM THE EARNINGS OF PROSTITUTION

A person who lives partly or completely on the payments from someone else doing sexual acts or sexual violations faces **Sentence of a fine up to E30 000; jail up to 10 years; in or both.**

- A child cannot be found guilty of this crime.

KEEPING A BROTHEL (sections 18-22)

A **"brothel"** is a house or place where people visit to do prostitution, or any other sexual activities in exchange for money, or any other form of benefit



Operating or **"keeping a brothel"** is a crime. The following persons are also taken as keeping a brothel:

i.

- any person who owns, controls, manages or helps in managing a brothel
- any person who lives in a brothel unless that person proves that he or she did not know that the house or place was a brothel
- any person who gets part or all of the money made from a brothel, knowing that it is a brothel
- any person who allows a house or place that they are renting, or where they live to be used as a brothel
- any person who owns a house or place and rents it out, knowing that the place is will be used or is being used as a brothel
- any person that is found in a brothel and who refuses to give the name and identity of the owner or manager of the brothel
- any person whose husband or wife lives in, manages or helps in managing a brothel, unless the person proves that she or he did not know that the house or place was a brothel; or that she or he lives in a different place from their husband or wife, and did not accept any money knowing that it was made from the business of the brothel

Sentence: fine up to E50 000; jail up to 15 years; or both.



A lease agreement for a brothel is invalid. This means that the agreement is not accepted by the law, and the persons who make the agreement cannot legally claim any rights under it.



If the house or place becomes a brothel after the agreement is made, the agreement will become invalid from the date that the house or place became a brothel.



If the person who owns the house or place proves that he or she did not know it was used as a brothel, that person has a right to claim for any loss or harm that has happened as a result of the lease agreement being made invalid.

The owner of a house or place used as a brothel has a right to apply to a Magistrate for the person who is using the house or place as a brothel to be immediately evicted (ordered out of the house or place)



Where there is a complaint that a house or place is being used as a brothel, a magistrate can make an Order:

- a. to arrest the person who is taken to be keeping a brothel; or
- b. to give a police officer that is a sergeant or above, permission to:
 - enter the house or place suspected to be a brothel to get information about the name and identity of the person keeping the house or place
 - to question any person found in the house or place and get their name and address
 - to demand, search for and take any account book, receipt, paper, document, or anything that could be used as evidence that a crime under the Act has been done



A magistrate can make this Order after getting statements from:


- i. at least two persons of good character whose houses are close to the house or place that is suspected of being used a brothel
- ii. a police officer that is a sergeant or above
- iii. a social worker or any officer from the organisation that manages the area where the house or place is

If a police officer is searching a brothel and any person who is found there refuses to give his or her name and address, or gives a false name and address; or refuses to give the name and identity of the person who keeps the brothel; or refuses to show any book, receipt, paper or document under the person's control, that person faces:

Sentence of a fine up to E20 000; jail up to 5 years; or both

PART IV: Offences Related to Pornography

Pornography is a still or moving picture, whether real or acted out, showing any of the following actions:

- 
- i. a person participating in, or helping someone else participate in sexual acts, or sexual violations, or showing nakedness for sexual pleasure
 - ii. clear sexual behaviour that lowers a person's dignity or encourages causing harm
 - iii. sexual activities with an animal

DISTRIBUTING OR PUBLISHING PORNOGRAPHY (section 23)

It is a crime to distribute or publish pornography.

A person distributes or publishes pornography when they:

- a. make, advertise, show or give pornographic material to an adult who has not agreed, or to a child
- b. make or show pornographic material that does not have the name and address of the person making or showing the material, the age restriction for looking at the material, or other important information about what the material is about
- c. show a pornographic film to adults who have not agreed or to children, whether this happens in a private or a public setting

Sentence: fine of up to E50 000; jail up to 15 years; or both

Where a person does this crime to their child, or a child they are responsible for, the person faces **Sentence** of a fine up to E75 000; jail up to 20 years; or both

USING CHILDREN FOR CHILD PORNOGRAPHY (section 24)



This is when a person uses, or helps to use a child to make any material that shows a child doing or participating in any sexual activity, including any of the following actions:

- i. anything that is a sexual offence; sexual violation or sexual penetration
- ii. anything that shows the private parts or breasts of the child being sexually excited, or being exposed in a way that is sexually abusive and lowers the dignity of the child
- iii. the child behaving in a sexual way, including sexually exciting themselves
- iv. the child being made to feel pain, or making someone else feel pain for sexual pleasure
- v. the child participating in or helping someone else participate in sexual activities
- vi. the child being present, participating or being involved in any other way when someone else is doing these sexual activities



This is a crime no matter what the reason is for a person using a child to make pornographic material. It also does not matter whether or not the person will get money or any other form of payment, in exchange for using a child in this way.

Sentence: up to 25 years in jail

OTHER CRIMES RELATED TO CHILD PORNOGRAPHY (sections 25-28)

MAKING CHILD PORNOGRAPHY

This is when a person makes, or tries to make any pornographic material involving a child.

Sentence: Up to 25 years in jail

This is when a person gains by receiving money or any other form of payment for making child pornography.

Sentence: Up to 20 years in jail

BENEFITTING FROM CHILD PORNOGRAPHY

DISTRIBUTING PORNOGRAPHIC MATERIAL INVOLVING A CHILD

This is when a person shares pornographic material involving a child with others

Sentence: Up to 20 years in jail

This is when a owns or has pornographic material involving a child

Sentence: up to E75 000 fine; up to 15 years in jail; or both

POSSESSING PORNOGRAPHIC MATERIAL INVOLVING A CHILD



DEFENCES (section 29)

A person may who is charged with any of the crimes related to child pornography can defend himself or herself by proving that what he or she did was reasonable in the circumstances, and that it was not done for sexual satisfaction, but for reasons that are genuinely artistic, educational, legal, medical, scientific or for public benefit.



Doing activities related to Swazi cultural events is also a defence.



EXCLUDING NON-ESSENTIAL PERSONS FROM COURT (section 30)

When pornographic material involving a child will be shown in a court case, the court must keep out of the court everyone except those people that are necessary for the case to continue, or those that the court believes should be there.

USING PERSONS WITH DISABILITIES FOR PORNOGRAPHIC PURPOSES (section 31)



This is when a person uses or helps to use a disabled person to make any material that shows a disabled person doing or participating in any sexual activity, including any of the following actions:

- i. anything that is a sexual offence; sexual violation or sexual penetration
- ii. anything that shows the private parts or breasts of a disabled person being sexually excited, or exposed in a way that is sexually abusive and lowers the dignity of the disabled person
- iii. the disabled person behaving in a sexual way, including sexually exciting themselves
- iv. the disabled person being made to feel pain or making someone else feel pain for sexual pleasure
- v. the disabled person participating in, or helping someone else participate in sexual activities
- vi. the disabled person being present, participating or being involved in any other way when someone else is doing these activities



This is a crime no matter what the reason is for someone to use a disabled person to make the pornographic material. It also does not matter whether or not the person using the disabled person will get money or any other form of payment, in exchange for doing this.

Sentence: up to 20 years in jail

BENEFITTING FROM USING PERSONS WITH DISABILITIES FOR PORNOGRAPHY (section 32)

This is when a person gains by receiving money, or any other form of payment for using a disabled person for making pornographic material.

Sentence: up to 20 years in jail

OBSERVATIONS OR RECORDINGS THAT INTERFERE WITH PRIVACY (section 33)

It is a crime to intentionally watch, or take a picture or a video of another person, in a situation where a reasonable adult would expect privacy

- without the consent of that person
- where that person is in a private place, or is doing a private act

Sentence: up to 15 years in jail

It is a crime to watch, take a picture or a video of the private parts or anus of another person

- whether covered or naked
- without consent of that person
- in a situation where a reasonable adult would expect privacy

Sentence: up to 15 years in jail

An illegal recording is a picture or video of:

- another person in a private place, doing a private act, or
- the private parts or anus of another person, whether covered or not in a situation where a reasonable adult would expect privacy

It is a crime to share a recording that a person believes is illegal with other people, without the consent of the person that was recorded

Sentence: up to 15 years in jail



People that are responsible for making sure that the law of the country is respected (**law enforcement officers**) such as police officers are not taken as breaking the law if they do these things as part of their official duties, and if what they do is reasonable in the situation in order for them to do their duty.

PART V: Offences Involving Children

INDECENT TREATMENT OF CHILDREN (section 36)

This is when a person:

- i. treats a child in a sexually unsuitable way, or allows a child to treat that person in a sexually unsuitable way
- ii. makes a child participate in a sexual violation, or shows a child a sexual violation being done by that person or by someone else
- iii. intentionally shows or makes a child listen to any sexually vulgar material.
- iv. takes a sexually unsuitable picture of a child

SENTENCES

- ➔ If the victim is 0-11 years of age: **up to 25 years in jail**
- ➔ If the victim is 12-17 years of age: **up to 20 years in jail**
- ➔ If the person who treats a child in this way is the child's grandparent, parent, or someone taking care of the child: **up to 20 years in jail**

MAINTAINING A SEXUAL RELATIONSHIP WITH A CHILD (section 37)

This is when a person has done more than one sexual act with a child.

Sentence up to 20 years in jail.

The person can also be charged with any other sexual offence in the Act. Where the person is found guilty, the sentences given must be served one after the other.

Proving that the victim/ survivor and the accused person are both below 18 years, and they both freely agreed to the activities in section 36 and 37, can be used as a defence.

The DPP must give written permission to start the prosecution of a case where the victim/survivor is less than 18 years old; 5 years or less separates the age of the victim/ survivor, and the age of the accused person; and that both of them freely agreed to do the activities in section 36 and 37.

SEXUAL GROOMING OF CHILDREN (section 38)

Sexually grooming a child is when a person uses different ways to attract a child to have a secret sexual relationship with the person

Sexual grooming of children includes when a person does any of the following actions:

- ➔ gives or shows a child any object that is used for doing a sexual act, or any pornographic material in order to make or convince the child to participate in a sexual act with that person or anyone else.
- ➔ does any act with a child, or in the presence of a child, or talks about doing any act to a child, or in the presence of a child in order to convince the child to do the following:
 - i. to do a sexual act with that person, or someone else
 - ii. to sexually excite themselves in the presence of the person or someone else, while that person or the other person is watching
 - iii. to be in the presence of or watch the person, or someone else do a sexual act, or sexually excite themselves
 - iv. to see or be used for pornography
 - v. to uncover all or any part of the child's body in a manner that sexually embarrasses the child so that the person or someone else can see it
- ➔ arranges a meeting or communication with a child, in order to do a sexual act with the child
- ➔ following the meeting or communication, makes a child travel to where the person is, or travels to meet the child, so that the person can do a sexual act with the child
- ➔ during the meeting or communication, makes a child do a sexual act with the person, or makes the child explain the doing of a sexual act
- ➔ makes a child send the person any pornographic material involving the child or another person, by any form of communication, including technology

Sentence: up to 25 years in jail

PROMOTING SEXUAL GROOMING OF CHILDREN (section 39)

Promoting the sexual grooming of children is a crime. Promoting the sexual grooming of a child is when a person:

- ➔ makes, organises or shares, or helps to make, organise or share any object, pornographic material, or document that advertises or is to be used for doing a sexual act by or with a child
- ➔ gives, or shows another person an object, or pornographic material or document in order to convince the other person to do a sexual act with a child
- ➔ arranges communication, or a meeting between a child and another person so that the other person can do a sexual act with the child

Sentence: up to 25 years in jail

USING ELECTRONIC COMMUNICATION TO INVOLVE CHILDREN IN SEXUAL ACTS OR SEXUAL VIOLATIONS (section 40)

It is a crime for a person to use electronic communication:

- i. to get, or to arrange for a child, or someone the person thinks is a child, to do a sexual act or violation
- ii. to show a child, or someone the person thinks is a child, anything that is sexually unsuitable

SENTENCES:

➔ If the victim/ survivor is 0-17 years of age: **up to 20 years in jail**

➔ If the victim/ survivor is 12-17 years of age: **up to 20 years in jail**

➔ If the person doing this to a child is the child's parent, or grandparent, or is someone taking care of the child: **up to 25 years in jail**

It is a crime for a person to make or force a child to be present to watch the person or someone else, doing a sexual offence or sexually exciting themselves.

It does not matter whether the person does this for sexual pleasure or not.

**MAKING A CHILD TO
WATCH SEXUAL
OFFENCES OR SEXUAL
ACTIVITIES
(section 41)**

Sentence: up to 15 years in jail

**ABDUCTION
(section 42)**

Abduction is a crime. Abduction is when a person takes a child away from the child's parent, or anyone responsible for the child for the following reasons:

- i. so that the person can do any sexual act or sexual violation with the child
- ii. so that the child can be used for any sacrifice that will harm the child
- iii. to use the child in anything that is not allowed by the law

Sentence: up to 15 years in jail

PART VI: Offences Involving Persons with Disabilities

SEXUAL GROOMING OF PERSONS WITH DISABILITIES (section 44)

The sexual grooming of persons with disabilities is a crime. Sexually grooming a person with a physical or mental disability is when a person does any of the following actions:

- ➔ gives or shows another person any object that is used for doing sexual act, any pornographic material, or document in order to make or convince that person to do a sexual act with a physically disabled person without consent, or to a mentally disabled person
- ➔ arranges a meeting or communication between another person and a physically disabled person, without consent of the disabled person so that the other person can do a sexual act with the disabled person, without consent
- ➔ arranges a meeting or communication with a physically disabled person, without consent of the disabled person in order to do a sexual act with the disabled person, without consent
- ➔ following the meeting or communication, makes a physically disabled person travel to meet the person so that the person can do a sexual act with the disabled person, without consent
- ➔ following the meeting or communication travels to meet the physically disabled person with the aim of doing a sexual act with the disabled person
- ➔ during the meeting or communication, makes the physically disabled person do a sexual act with the person, or talk about doing a sexual act
- ➔ gives the disabled person, without consent, pornographic material through any form of communication, including electronic communication

Sentence: up to 25 years in jail

A person sexually grooms a person with a mental disability when that person does any of the following actions:

- ➔ giving or showing a mentally disabled person any thing that is used for a sexual act, or pornography material in order to convince or make it possible for the disabled person do a sexual act
- ➔ doing or discussing any action with mentally disabled person, or in the presence of mentally disabled person in order to convince the disabled person to do the following:
 - i. to do a sexual act with that person or someone else
 - ii. to sexually excite themselves in the presence of the person or someone else while that person or the other person is watching
 - iii. to be in the presence of or watch the person or someone else do a sexual act or sexually excite themselves
 - iv. to see or be used for pornography
 - v. to uncover all or any part of the mentally disabled person's body in a manner that sexually embarrasses the disabled person so that the person or someone else can see it
- ➔ arranging a meeting or communication with a mentally disabled person in order to do a sexual act with the disabled person
- ➔ making a mentally disabled person travel to where the person is so that the person can do a sexual act with the disabled person
- ➔ during the meeting or communication, making the mentally disabled person do a sexual act with the person, or talk about doing a sexual act
- ➔ giving a mentally disabled person pornographic material through any form of communication, including electronic communication
- ➔ traveling to meet a mentally disabled person in order to do a sexual act with that person

Sentence: up to 25 years in jail

PART VII: Other Offences

BESTIALITY (section 45)

Bestiality is when a person does something that results in:

- their private parts going into the private parts, anus or mouth of an animal
- the private parts of an animal going into the person's private parts, anus or mouth
- sexually excites an animal

Sentence: fine up to E25 000; jail up to 10 years; or both

NECROPHILIA (section 46)

Necrophilia is when a person does a sexual act with the body of a dead person

Sentence: fine up to E50 000; jail up to 15 years; or both

FLASHING (section 47)

Flashing is when person intentionally shows their private parts or anus, or the private parts or anus of someone else. to another person without the consent of that other person

Sentence: fine up to E15 000; jail up to 5 years; or both

It is a defence against flashing to show that the private parts or anus were shown to another person in the following circumstances:

1. Where the private parts or anus of a parent/ guardian are exposed to a child under the age of 12 years who needed help with bathing, and the only reason for exposing these parts was that the parent/guardian and child were bathing together, and no unlawful sexual act was committed during the bathing
2. The reasons for the private parts or anus being shown is for medical or health purposes; or for collecting evidence; or if it is a parent/ guardian who is checking a child's private parts or anus to see if the child was sexually abused.




PART VIII: Sexual Harassment (section 48)




SEXUAL HARASSMENT (section 48)


Sexual harassment is when a person does any of the following actions:



an unwanted or unwelcome act of being physically close to another person, and doing things like patting, pinching or touching the other person in a sexual way



directly or indirectly makes an unwanted or unwelcome demand for sexual favours from another person



behaves in other sexually unwelcome ways towards another person, such as making sexually related or insulting telephone calls to the other person; or showing the other person parts of the person's body such as the person's private parts, buttocks or breasts



The person doing the sexual harassment does it:

- i. with the aim of insulting, shaming or intimidating the other person
or
- ii. where it would be expected that a person would feel insulted, shamed or bullied, looking at:
 - the sex, age or race of the other person
 - any disability that the other person has
 - the relationship between the person doing the act and the other person
 - if the act was done in a public or private place
 - the time when the act was done
 - any other circumstances that a court believes is important

Sentence: fine of up to E25 000; or up to 10 years in jail or both.



PART X: The National Register for Sexual Offenders (sections 56-68)



Government will keep **a record of sexual offenders** called a National Register for Sex Offenders. The Register is for the protection of victims of sexual offences, especially children and persons with disabilities.



Persons whose information will be in the Register

The Register will contain a list of people who have been found guilty by a court of doing a sexual offence, whether before or after the SODV Act was passed, or whether they did the offence in or outside the country.



Information on sex offenders will be given to the Registrar as follows:

A court that finds a person guilty of a sexual offence and sentences the person, or makes a special decision about their mental state in the case, must also order that the persons' information is recorded in the Register.



The court must explain to the person what is in the order and what it means. The order must immediately be given to the Registrar. The employer of the person must also be informed of the order.



Within 3 months after the Act has started working:



The Commissioner General of the Correctional Services must forward a list of people who are in jail or have been in jail for sexual offences to the Registrar. The Commissioner must inform any affected offender who is currently in jail that his or her information has been forwarded to the Registrar and what this means.



The National Commissioner of the Royal Eswatini Police Service must forward any information the police have on any persons that have been found guilty of sexual offences.



The Director of Health Services must forward information on all persons in whose cases a court made a special finding about the mental state of the person when they did the crime. The Director must inform every person affected that their particulars have been forwarded to the Registrar.



When the Registrar receives this information it must be immediately recorded in the National Register for Sex Offenders.

Contents of the Register

Information contained in the Register about the sex offender will include the following:

- full names, age, profession or occupation
- physical address and other contact details, including postal address;
- ID number, passport number or driver's licence number
- the sexual offence the person was found guilty of doing; the sentence the offender was given
- where and when the decision on the case and sentence were taken; and the person's prisoner ID number
- if the person is in or has been to jail
- which court heard the case, and the case number
- where a court has made a special finding about the mental state of the offender, the name of the hospital or doctor the person was treated by
- any other information that may be required



If the offender was found guilty of a sexual offence, and sentenced outside eSwatini, the same information will be collected from that country or any other legal source and included in the Register.



A sex offender must notify Registrar of changes in his or her particulars

Where there is a change to any of the information about a person whose name is in the National Register for Sex Offenders, that person must inform the Registrar of the change within 14 days.

Failing to inform the Registrar of changes is a crime

Sentence: fine up to E7 000; up to 18 months in jail; or both

Confidentiality of the information in the Register



The information contained in the National Register for Sex Offences is **private**. The Registrar, and any other person who gets information as a result of their work under the Act, are not allowed to reveal that information, unless this is necessary for carrying out the law, or is required by the court.

Revealing information for any reason other than what is required by the Act is a **crime**.

Sentence: fine up to E10 000; 2 years in jail; or both.

Only certain people are allowed to get information in the Register
The information must be requested only in order for a person to be able to do a duty the person has under the Act



Removing a person's particulars from the Register



A person whose information is in the Register can apply for the removal of his or her information from the Register **10 years after** they have served their sentence, if it was the first time he or she was found guilty of a sexual offence



If the person has been found guilty of sexual act more than once, their **information cannot be removed** from the Register



A person in whose case a court made a special finding about their mental state can apply for their information to be removed from the Registrar **5 years after** the person recovers, or is released by the court from any limits it had made on the person.



If the Registrar finds that a person's **information was wrongly included** in the Register, the information can be removed from the Register.



Registered sex offenders are banned from doing certain types of work:

Anyone whose details are in the National Register is **not allowed**:



to work in anyway with children, or with persons who are physically or mentally disabled



to be given a position where that person supervises or cares for a child; or where they can get access to children or to places where children come together



to be given a position where that person supervises or cares for a disabled person, or where they can get access to disabled persons, or to places where disabled persons come together



to be given a licence to manage or run any place or business that supervises or cares for children, or persons with disabilities



to be appointed as a foster-parent, caregiver or adoptive parent
to be appointed legal guardian of a person who is mentally disabled

Any person who does not respect the above may get a
Sentence of a fine up to E25 000; jail up to 5 years; or both



Duties of persons who are employed, or applying for a job in places that work with children or persons with disabilities

1. A person who is employed and was found guilty of a sexual offence, must tell his or her employer this information.
2. A person who is applying for a job at a place where employees work with or care for a children or persons with disabilities, and was found guilty of a sexual offence must include this information in his or her job application.

Not revealing this information is a crime. Sentence: fine up to E10 000; up to 2 years in jail; or both.



Duties of employers who work with children or persons with disabilities

An employer in terms of the Act is a government or private body, business, or a person who employs people who work with or care for children, or persons with disabilities

1. An employer must apply to the Registrar of the National Register for Sex Offenders for a certificate with information about whether the particulars of an employee, or someone applying for a job is in the Register.
2. Where an employee's name is in the Register, an employer is not allowed to continue employing the person.
3. In the case of a person applying for a job, an employer is not allowed to hire a person whose name is in the Register.
4. Where a person does not tell his or her employer that he or she has been found guilty of a sexual offence, the employer must immediately stop the person from working.
5. An employer must take steps to prevent an employee who is in the Register from continuing to have access to children or persons with disabilities as part of their work, including transferring the person to another position. However, if these steps do not guarantee the safety the children, or persons with disabilities, the person's employment must be stopped immediately.

It is a crime for an employer not to do the above.

Sentence: fine up to E10 000; up to 2 years in jail; or both



Licences for organisations or businesses working with children or persons with disabilities

Before a licence is given to a person to run an organisation, or business working with or caring for children, or persons with disabilities, the authority responsible for giving licenses must first check if the person applying is listed in the National Register for Sexual Offences.

Not checking the Register is a crime.

Sentence: fine up to E15 000; up to 3 years in jail; or both.

A person applying for such a licence must inform the licensing authority if he or she has been found guilty of a sexual offence.

A person who does not do this faces

Sentence: up to E15 000 fine; up to 3 years in jail; or both



Applications to be a foster-parent, caregiver, adoption, or curator

An authority that is responsible for applications and appointments of people as fosters parents, caregivers, adoptive parents or legal guardians must first check if the person applying is listed in the National Register .

Not checking the Register is a crime.

Sentence: up to 7 years in jail; up to E20 000 fine; or both.

A person who is applying to be appointed as a foster parent, caregiver, adoptive parent or legal guardian must inform the authorities if he or she has been found guilty of a sexual offence.

It is a crime not to inform the authorities.

Sentence: up to E35 000 fine; up to 7 years in jail; or both



PART XI: Medical Examination of Victims and their Treatment by Professionals



Duty of police officers (section 72)

A police officer who attends to a victim/survivor of a sexual offence or domestic violence must tell the person that counseling, and other support services are available. This includes medication such as Post-Exposure Prophylaxis (PEP), which is medication that must be taken within a certain time to prevent HIV transmission.



Duty of prosecutors (section 73)

A prosecutor dealing with sexual offences or domestic violence cases must send any child victim/survivor to a suitable office or organisation to prepare the child for court.



Examination of a victim/survivor of a sexual offence (section 75)

1. Any qualified nurse or doctor can examine a victim/survivor of a sexual offence, with that person's consent.
2. Where a delay in doing the examination would make it of no use, any adult person may examine the victim/survivor, with their consent.

Where the victim/survivor is a child, the examination will be made only if it is for the good of the child in the circumstances.



Treatment of victims of sexual offences (section 76)

1. Any person who examines a victim/survivor of sexual offence must do so in a way that limits adding more trauma to the victim/survivor.
2. If the victim/survivor is a child, he or she may be treated with PEP if the child's parent, guardian or caregiver gives consent, or if the court orders it.

A medical officer who does not treat a victim/survivor as required by the Act will be taken to be doing an act of misconduct in terms of the law relating to medical practice, and may be disciplined by the responsible body.

PART XII: Domestic Violence

What is the Crime of Domestic Violence?

Domestic violence is when a person does an **abusive action** to another person that they have a **domestic relationship** with, which harms, or is likely to harm the other person

The following are different forms abuse included in the Act:

1. Physical abuse

any act of physical violence or threatening physical violence towards the other person

any sexual behaviour that abuses or humiliates the other person

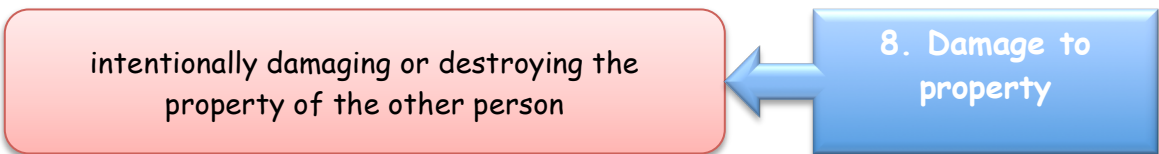
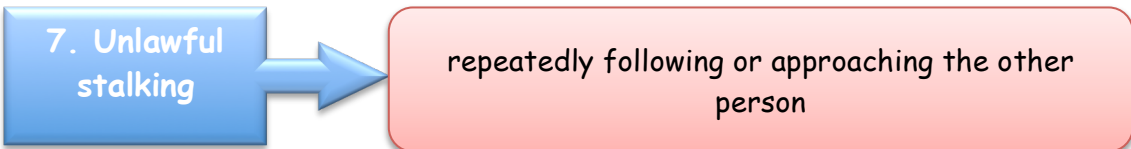
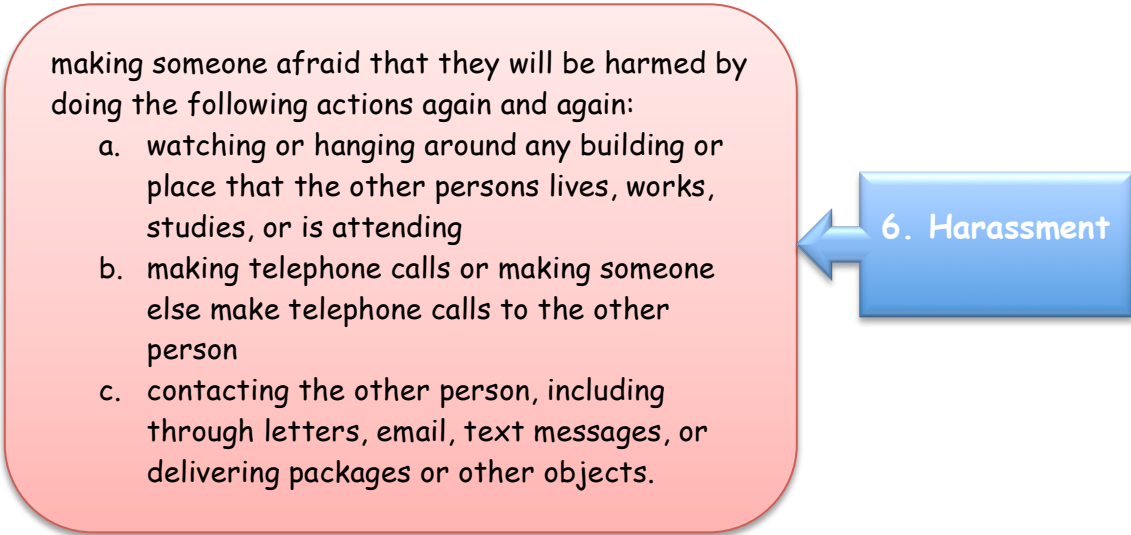
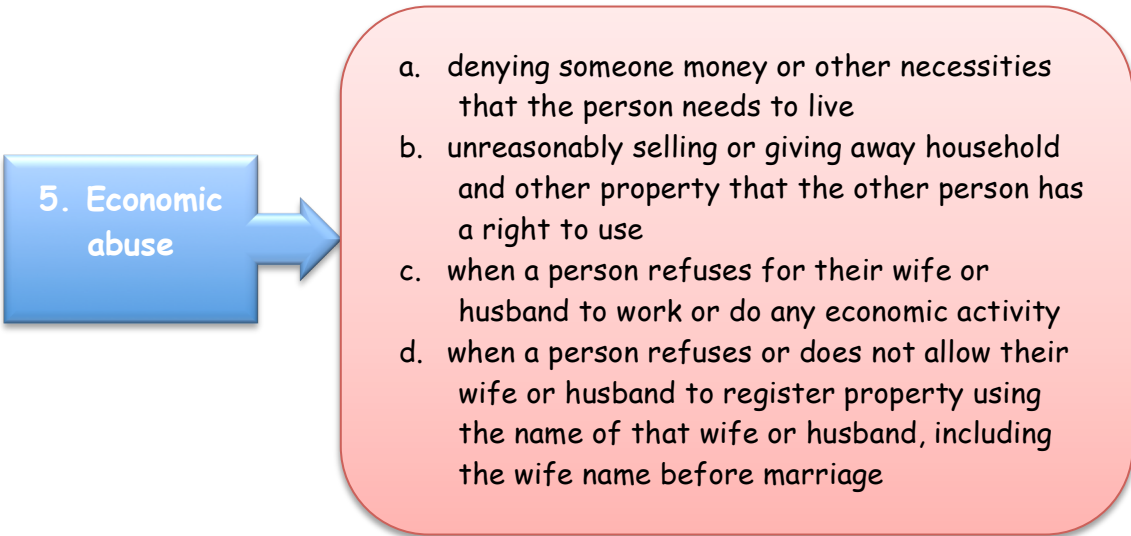
2. Sexual abuse

3. Emotional, verbal and psychological abuse

- a. insulting, mocking or calling the other person names
- b. causing the other person emotional pain
- c. behaving in such a controlling and jealous way towards another person such that person's privacy, freedom or safety is disturbed

making the other person afraid by making or sending threats to them

4. Intimidation





An abusive act qualifies as domestic violence if it happens between two people who have a **"domestic relationship"**



The following persons are taken to have a **domestic relationship**:

- i. Persons who are married, or were married before
- ii. Persons who live together as if they are married or lived together in the past as if they were married
- iii. Parents of a child, or persons who are, or have been guardians of a child
- iv. Persons who are members of the same family, related either by blood, marriage or adoption
- v. Persons who are or have been engaged, or in any other kind of romantic or intimate relationship
- vi. Persons who live together, or have recently lived together before

Someone who makes another person do any domestic violent acts for them is taken to have done those acts themselves

Sentence for Domestic Violence:
up to E75 000 fine; up to 15 years in jail; or both



Protection Against Domestic Violence: **Protection Orders**

A person who is a victim/survivor of domestic violence can apply to court for a **Protection Order**. This is an Order to protect the person and that person's relative(s) or friend(s) against the person accused of domestic violence

Other people can also apply for a Protection Order for the victim:



a police officer



an "authorised person." An authorised person is:

- i. someone who is an adult and who has been given written permission by the victim/survivor to make the application

- ii. someone who is an adult and who the court believes has permission from the victim/survivor to make the application, even though that permission is not in writing
- iii. someone who is concerned about the health and safety of the victim/ survivor, such as a counselor, teacher or social worker, but the victim/survivor cannot give written permission for the person to make the application because the victim/survivor is a child, has a mental disability, or is unconscious

In the case of a child, the child or any person applying for that child can make the application without help from the parent or caregiver of the child.

When does a court give a Protection Order?



- A court will give a victim/survivor a Protection Order in the case where a person that the victim/ survivor has a domestic relationship with has:
- i. abused the victim/ survivor, and will probably abuse the victim/survivor again; or
 - ii. if that person threatened the victim/survivor, and the person will probably do what they threatened.

What does the Protection Order do?



In a **Protection Order**, the court tells the person accused of domestic violence to behave well, and not be violent towards the victim/survivor and anyone else protected by the Order.

The court can also order the following against the person accused of doing the domestic violence:



that the person stops doing the violence



that the person does not ask someone else to do any act of domestic violence for that person



where the person and the victim/survivor live in the same place, the court may make the following orders about the home or any part of the home the two persons share

- a. an order that the person accused of domestic violence leaves the place
- b. an order that the person accused of domestic violence stop coming into or trying to come into the place
- c. an order that the person accused of domestic violence cannot come close to the place by a certain distance



where the victim/survivor does not live with the person accused of domestic violence, the court may make the following orders about the victim's/survivor's home:

- a. that the person accused of domestic violence leave the place
- b. that the person accused of domestic violence stop coming into, or trying to come into the place
- c. that the person accused of domestic violence cannot come close to the place by a certain distance



that the person stop coming near, or trying to come near the victim/survivor, or any other person that is listed in the Protection Order; **the Order may include the distance that the person must keep away from the victim/survivor**



that the person stop contacting, trying to contact or asking someone else to contact the victim/survivor, such as in the case where a victim/survivor is staying at a safe-house



that the person does not find or try to find the victim/survivor or any other person that is listed in the Protection Order



that the person stops acting in abusive way to the victim's/ survivor's child, including not allowing the person to be in a place that the child goes to a lot



A court can also include the following in a Protection Order:

1. That the person accused of domestic violence continues to pay rent, even where the court has ordered that the person leave the place where he or she was living with the victim/survivor. This will continue until the court makes a decision on maintenance, and on who should remain in the house.
2. That the person accused of domestic violence give back any property belonging to the victim/urvivor.
3. That the person accused of domestic violence allows the victim/survivor to use, or get back their property



If there is a child involved, the court may also order:



that a victim/survivor or their child does not enter a place or any part of a place where the victim/ survivor lives or lived with the person accused of domestic violence



that the person accused of domestic violence is not allowed to be with the child, or that they can only be with the child under certain circumstances



If the person is registered to legally hold a weapon such as a gun, the court can order the registration to be cancelled, and take away the person's right to hold such a weapon.



The court also has the power to make other conditions that make additional limitations on the actions of a person accused of domestic violence.



When does a Protection Order start and stop?

A Protection Order starts working on the day it is made.



A Protection Order can be changed or cancelled by a court at any time, depending on the evidence that is given when an application for a change or cancellation is made.

The persons who may apply for a Protection Order to be changed or cancelled include the victim/ survivor of the domestic violence, the person against whom the Protection Order was made, an authorised person or a police officer.

The court will only cancel a Protection Order if it believes that this will not be harmful to the safety of the victim/survivor and anyone else protected by the Order.



A Protection Order can ordinarily not be made for more than 2 years.

If there are special reasons, the court can extend the Order, BUT it cannot be extended beyond 3 years.



Register of Protection Orders

There will be a **Register of Protection Orders** that will be kept by the police at a central place so that the police can get information about any existing Protection Orders when they deal with domestic violence reports.

The information in the Register will be kept confidential, and only police officers, prosecutors and social welfare officers will be able to get information from it, if they have a court order to do so.



What happens when a Protection Order is not respected?

If a person has a Protection Order against them, continues to do domestic violence or by goes against anything else in the Order, the person may be arrested.

Sentence

First offence: up to 2 years jail; up to E3 000 fine; or both
5 years; or E10 000; or both where more offences are committed

Other Important Issues in the Act

DEFENCES AND ISSUES THAT MAY AFFECT SENTENCING

AGE OF CRIMINAL CAPACITY (section 150)

In order for a person to be held responsible (found guilty) for doing any criminal action, he or she must have criminal capacity. This means that the person must be mentally mature enough to understand right and wrong, and to fully understand their actions. A person who intentionally does a criminal act knowing that it is wrong has criminal capacity, therefore can be held responsible for the crime by the court. Being of a young age is one of the things that can affect whether a person has criminal capacity or not.



A child aged 0-10 years does not have criminal capacity for any of the crimes in the Act.



A child aged between 10-14 years is taken not to have criminal capacity for crimes under the Act **unless** it is proved that the child did have the mental understanding and intention to commit the crime.


This means that a child of 14 years and above has full criminal capacity and can be prosecuted and held responsible for crimes under the Act.

RELATIONSHIP BETWEEN THE VICTIM/ SURVIVOR AND ACCUSED PERSON (section 151)




There is no type of relationship between the person accused of any crime under the Act and the victim/survivor that can be used as a defence against the crime. It does not matter whether the relationship exists now or existed in the past.


NOT KNOWING THE AGE OF THE VICTIM/ SURVIVOR (section 151)

-  A person accused of a crime under the Act cannot escape responsibility (for the crime just because:
- i. the person did not know that the victim/survivor was underage (below 18 years)
 - ii. the person believed that the victim/ survivor was not underage


The person can still be found guilty of the crime, but the court may look at this issue when it decides on the sentence to be given.


CONSENT TO THE CRIME (section 153)


 The defence of consent, meaning that a victim/survivor agreed to the doing of the crime, cannot be used for any of the crimes in the Act.

 The only exception is in the case of the crimes of indecent treatment of children (section 36) and maintaining a sexual relationship with a child (section 37) where both the victim/survivor and the accused person were under the age of 18 when the crime happened and both of them freely agreed to do the activities.

INTOXICATION (section 154)

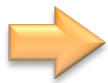
 Intoxication (for example, being drunk) relates to a person's physical or mental control being reduced as a result of taking any alcohol, or drugs.

 A person accused of a crime under the Act can still be found guilty even if they were intoxicated.

 However, when deciding on a sentence, the court may look at whether a person was intoxicated when they did the crime, how much they were intoxicated and how this affected their decision-making.



PROTECTION OF WITNESSES



A court must take actions to protect victims/survivors and witnesses in cases under the Act (section 159). In doing so, the court will look at issues such as the age, gender, health of the victim/survivor or witness.

The court must make sure that the actions it takes to protect victims/survivors and witnesses do not negatively affect the fairness of the trial.



A court can also state that a witness a “vulnerable witness” (section 159). Where a person is declared a vulnerable witness, the court will make special arrangements relating to how that person will give evidence in the case.



Part XXIX of the Act (sections 161-170) deals with **the protection of children when they are witnesses in a case.** It includes instructions on the following:

- i. how a child must be interviewed by the police
- ii. video recording of a child's evidence for court
- iii. questioning a child on the evidence that the child has given
- iv. removing people who are not necessary in the court when a child is giving evidence about a sexual offence
- v. a child's right to have a support person nearby while giving evidence



USE OF CHILD-FRIENDLY COURTS (section 189)



If a child has to give evidence, the court has to make sure that the place to be used as a court is set up in such a way as to make the child feel relaxed, and that the child cannot see or hear any person involved in the case that might upset the child.



The place must also be such that the court, or any other person who is needed for the case can see and hear the child, and the person helping the child to give evidence (intermediary). This can be done in different ways, including through electronic devices.



DOMESTIC VIOLENCE COURTS (section 126)



The Act states that special Domestic Violence Courts will be set up to deal with domestic violence cases.



DEALING WITH HIV TESTING FOR CASES (section 195)



In view of the link between HIV and gender-based violence, especially sexual violence, and the right to privacy, it may be necessary to conduct HIV tests for some of the cases under the Act.

The rules about how applications for HIV testing will be made and how the privacy of the results will be kept will be made by the Minister responsible for the Act.



LIMITS ON PUBLISHING INFORMATION IN SODV ACT CASES (section 194)



No one, including a journalist or editor, is allowed to publish any information that will lead to people knowing the identity of the people involved in a case.



It is only the identity of the person accused of a crime under the Act that can be published, unless this will bring out the names of the other people involved.

Publishing information that is not supposed to be published about the people involved in case under the Act is a crime

Sentence: up to E10 000 fine; up to 2 years in jail

If the information is published by an organisation, company or any other body

Sentence: up to E50 000 fine.