

## WOMEN'S COMMISSION

### Domestic Violence (Amendment) Ordinance 2009

#### **Purpose**

This paper informs Members of the amendments made to the Domestic Violence Ordinance (DVO)<sup>1</sup> subsequent to the passage of the Domestic Violence (Amendment) Bill 2009 (the Bill).

#### **Background**

2. The DVO, enacted in 1986, provides civil remedies in the form of injunctions to protect spouse, people in heterosexual cohabitation relationships and their children against molestation by the other party to the relationship. The DVO has since its enactment excluded from its coverage cohabitation between persons of the same sex. In 2008, the Government extended the scope of the DVO to cover former spouses, former heterosexual cohabitants as well as other immediate and extended family members.

#### **Major Amendments**

3. In response to the calls by the Legislative Council (LegCo) members and the community, and having regard to the fact that similar special power interface, dynamics and risk factors between heterosexual cohabitants might also exist between same-sex cohabitants in intimate relationships and render the victims reluctant to report to the police the abusers' acts of violence, the Government introduced the Bill into the LegCo in June 2009. Major legislative amendments include –

- (i) To include a new definition of “cohabitation relationship”, that is, “a relationship between two persons (whether of the same sex or of the opposite sex) who live together as a couple in an intimate relationship and includes such a relationship that has come to an

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<sup>1</sup> The short title of the DVO has been changed to the “Domestic and Cohabitation Relationships Violence Ordinance” with effect from 1 January 2010.

end”, in the amended DVO. To mitigate the concern of the religious and parents groups, the definition is gender neutral and is devoid of references that may have, or may be perceived to have, the effect of equating same-sex cohabitation with the concepts of “marriage”, “spouse” or “husband and wife”. In addition, new provisions are included which set out a list of factors for reference by the court in determining whether a relationship constitutes a cohabitation relationship that is covered by the amended DVO;

- (ii) To introduce structural changes to the DVO to clearly delineate different categories of protected persons that are under the coverage of the amended Ordinance. Specifically, the three categories of protected persons, namely spouses, former spouses and their children; immediate and extended family members; and cohabitants in an intimate relationship, former cohabitants and their children, are to be dealt with under section 3, 3A and 3B of the amended DVO respectively; and
- (iii) To highlight that the amended DVO will also be applicable to persons in cohabitation relationships, the short title of the DVO will be revised to read as Domestic and Cohabitation Relationships Violence Ordinance.

### **Latest Development**

4. The Bill was vetted by a dedicated Bills Committee between June to November 2009 and received wide community support. It was passed by the LegCo after its third reading debate on 16 December 2009. To extend early protection to persons in same-sex cohabitation relationship, the LegCo agreed that the Domestic Violence (Amendment) Ordinance 2009 should start to take effect from 1 January 2010.

### **Advice Sought**

5. Members are invited to note the latest developments and the amendments made to the DVO as described above.

**Labour and Welfare Bureau**  
**January 2010**