



Adult Support and Protection (Scotland) Act 2007

2007 asp 10

PART 1

PROTECTION OF ADULTS AT RISK OF HARM

Protection orders and visits: supplementary

35 Consent of adult at risk

- (1) The sheriff must not make a protection order if the sheriff knows that the affected adult at risk has refused to consent to the granting of the order.
- (2) A person must not take any action for the purposes of carrying out or enforcing a protection order if the person knows that the affected adult at risk has refused to consent to the action.
- (3) Despite subsections (1) and (2), a refusal to consent may be ignored if the sheriff or person reasonably believes—
 - (a) that the affected adult at risk has been unduly pressurised to refuse consent, and
 - (b) that there are no steps which could reasonably be taken with the adult's consent which would protect the adult from the harm which the order or action is intended to prevent.
- (4) An adult at risk may be considered to have been unduly pressurised to refuse to consent to the granting of an order or the taking of an action if it appears—
 - (a) that harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult at risk has confidence and trust, and
 - (b) that the adult at risk would consent if the adult did not have confidence and trust in that person.
- (5) Subsection (4) does not affect the generality of subsection (3).

Changes to legislation: There are currently no known outstanding effects for the Adult Support and Protection (Scotland) Act 2007, Section 35. (See end of Document for details)

- (6) Neither subsection (3) nor any other provision of this Part authorises a council officer or a health professional or other council nominee to ignore a refusal by a person to consent to participate in—
- (a) an interview, or
 - (b) a medical examination.
- (7) In this section, a “protection order” means any—
- (a) assessment order,
 - (b) removal order,
 - (c) banning order, or
 - (d) temporary banning order,
- and “affected adult at risk”, in relation to a protection order, means the person whose well-being or property would be safeguarded by the granting, carrying out or enforcement of the order.

Commencement Information

II [S. 35](#) in force at 29.10.2008 by [S.S.I. 2008/314](#), [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Adult Support and Protection (Scotland) Act 2007, Section 35.