

DOMESTIC ABUSE (SCOTLAND) ACT 2018

EXPLANATORY NOTES

THE STRUCTURE AND A SUMMARY OF THE ACT

Part 1 – Offence as to Domestic Abuse

Presumption, alternative and penalty

Section 7 - Presumption as to the relationship

44. **Section 7** provides that the matter of the accused (A) being the complainer (B)'s partner or ex-partner is to be taken as established unless the matter is challenged prior to the trial taking place.
45. In summary proceedings, this challenge will be by preliminary objection before the plea is recorded or by later objection that the court allows in special circumstances. In proceedings on indictment, this challenge will be by giving notice of a preliminary objection in accordance with established procedures in sections 71(2) or 72(6)(b)(i) of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"). Section 71(2) of the 1995 Act is a procedure for dealing with preliminary pleas and preliminary issues at the first diet in solemn proceedings. Section 72(6)(b)(i) of the 1995 Act is a procedure for disposing of preliminary issues at the preliminary hearing in solemn proceedings.