

DOMESTIC ABUSE (PROTECTION) (SCOTLAND) ACT 2021

EXPLANATORY NOTES

THE ACT

Part 1 – Domestic abuse protection notices and orders

Domestic abuse protection orders

Section 18 – Applications under sections 8(1) and 12(1): power to specify additional applicants

127. Section 18 provides power for the Scottish Ministers to make regulations specifying additional persons who can apply to a court for a DAPO under section 8(1)(b), or to extend, vary or discharge a DAPO under section 12(1). The power is subject to affirmative procedure. Persons specified in regulations under section 18 cannot apply for a DAPO in a case where a DAPN has been given – such applications must be made by the chief constable (section 8(1)(a)).
128. Section 18(2) provides that the persons whom the Scottish Ministers can empower to make an application under sections 8(1) and 12(1) include local authorities, local authority landlords, registered social landlords and any other person whom the Scottish Ministers consider it appropriate to provide with such a power. “Person” has the meaning given in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010.
129. Section 18(3)(a) places a duty on the Scottish Ministers to consult with each person to whom it is proposed to provide a power to apply for DAPOs or to apply to extend, vary or discharge DAPOs. This is qualified in section 18(3)(a)(ii) so that where it is proposed to enable a particular type of persons, the Scottish Ministers may instead consult such persons as appear to the Scottish Ministers to represent that type of person. So, for example, they may consult with the Convention of Scottish Local Authorities instead of consulting with individual local authorities, or with a body representing registered social landlords, such as the Scottish Federation of Housing Associations, instead of consulting with each individual registered social landlord. The Scottish Ministers may also consult any other persons they consider appropriate.
130. Section 18(4) provides that regulations made under this section may modify any enactment (including this Act), may make incidental, supplementary, consequential, transitional, transitory or saving provision and may make different provision for different purposes.