

*These notes relate to the Domestic Abuse (Protection) (Scotland)
Act 2021 (asp 16) which received Royal Assent on 5 May 2021*

DOMESTIC ABUSE (PROTECTION) (SCOTLAND) ACT 2021

EXPLANATORY NOTES

THE ACT

Part 1 – Domestic abuse protection notices and orders

Domestic abuse protection orders

Section 15 – Jurisdiction and competence

113. Section 15 makes provision as regards the sheriff to whom an application for a DAPO under section 8(1) or an application to vary, extend or discharge a DAPO under section 12(1) should be made.
114. Section 15(2)(a) provides that an application for a DAPO may be made to a sheriff in whose sheriffdom either person A or person B is ordinarily resident. Section 15(2)(b) provides that an application to extend, vary or discharge a DAPO may be made to a sheriff of the same sheriffdom as the sheriff who considered the application for a DAPO which resulted (whether or not after appeal) in the making of the DAPO or interim DAPO to which the application under section 12(1) relates. This ensures that all applications for extension, variation or discharge, including applications in cases where the order was made in the course of appeal proceedings, should be made to a sheriff in the same sheriffdom where the original application for a DAPO was considered.
115. Sections 15(3) to 15(6) make provision to enable a sheriff to make an order to transfer proceedings to a sheriff of another sheriffdom.
116. Section 15(4) provides that the sheriff may do so if they are satisfied that it would be more appropriate for the proceedings to be dealt with by a sheriff of another sheriffdom.
117. Section 15(5) provides that the sheriff may make an order under section 15(4) on the application of a party to proceedings, or on the sheriff's own initiative.
118. Section 15(6) provides that where an order is made under section 15(4), a sheriff of the sheriffdom to which the proceedings are to be transferred has jurisdiction and competence to consider and determine the proceedings.
119. Section 15(7) provides that nothing in section 15 affects any power that a sheriff has to decline jurisdiction in any case.
120. Section 15(8) amends schedule 1 of the Courts Reform (Scotland) Act 2014 so as to provide that a summary sheriff has competence with respect to proceedings relating to a DAPO or an interim DAPO.