



# Domestic Abuse (Protection) (Scotland) Act 2021

2021 asp 16

## PART 1

### DOMESTIC ABUSE PROTECTION NOTICES AND ORDERS

*Persons to whom, and behaviour to which, notices and orders may relate*

#### **1 Persons to whom domestic abuse protection notices and orders may relate**

- (1) A domestic abuse protection notice (see section 5) or domestic abuse protection order (see section 9) may be made—
  - (a) in relation to a person (“person A”) who is aged 18 or over,
  - (b) for the purpose of protecting a person (“person B”)—
    - (i) aged 16 or over who is the partner or ex-partner of person A, and
    - (ii) with whom person A lives some or all of the time,from abusive behaviour by person A.
- (2) Person A and person B are partners if they are—
  - (a) spouses or civil partners of each other, or
  - (b) in an intimate personal relationship with each other.
- (3) Whether person A and person B are “ex-partners” is to be determined accordingly.
- (4) For the purposes of subsection (1)(b)(ii), the reference to person A living with person B is a reference to those persons living, at the same time, in any place where either person A or person B lives to any extent.
- (5) References in this Part to person A and person B are to be construed in accordance with this section.

#### **2 Meaning of abusive behaviour**

- (1) In this Part, “abusive behaviour by person A” means behaviour by person A which is abusive of person B.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Behaviour by person A is abusive of person B if a reasonable person would consider the behaviour to be likely to cause person B to suffer physical or psychological harm.
- (3) Behaviour is behaviour of any kind, including (for example)—
  - (a) saying or otherwise communicating something as well as doing something,
  - (b) intentionally failing—
    - (i) to do something,
    - (ii) to say or otherwise communicate something.
- (4) Behaviour directed at a person is such behaviour however carried out, including (in particular)—
  - (a) by way of conduct towards property,
  - (b) through making use of a third party,as well as behaviour in a personal or direct manner.
- (5) In [subsection \(2\)](#), the reference to psychological harm includes fear, alarm and distress.
- (6) Behaviour may consist of a single incident or a course of conduct.

### 3 What constitutes abusive behaviour

- (1) [Subsections \(2\) to \(4\)](#) elaborate on when behaviour by person A is abusive of person B.
- (2) Behaviour which is abusive of person B includes (in particular)—
  - (a) behaviour directed at person B that is violent, threatening or intimidating,
  - (b) behaviour directed at person B, at a child of person B or at another person that either—
    - (i) has as its purpose (or among its purposes) one or more of the relevant effects set out in [subsection \(3\)](#), or
    - (ii) would be considered by a reasonable person to be likely to have one or more of the relevant effects set out in [subsection \(3\)](#).
- (3) The relevant effects are of—
  - (a) making person B dependent on, or subordinate to, person A,
  - (b) isolating person B from friends, relatives or other sources of support,
  - (c) controlling, regulating or monitoring person B's day-to-day activities,
  - (d) depriving person B of, or restricting person B's, freedom of action,
  - (e) frightening, humiliating, degrading or punishing person B.
- (4) In [subsection \(2\)\(a\)](#), the reference to violent behaviour includes sexual violence as well as physical violence.