

DOMESTIC ABUSE (PROTECTION) (SCOTLAND) ACT 2021

EXPLANATORY NOTES

THE ACT

Part 1 – Domestic abuse protection notices and orders

Domestic abuse protection orders

Section 9 – Content and effect of order

69. Section 9 sets out the provisions that may be included in a DAPO and the period for which it has effect.
70. Section 9(1) provides that a DAPO is an order which requires person A to do, or prohibits A from doing, a thing or things specified in the order.
71. Section 9(2) provides that the requirements and prohibitions may include, but are not limited to, any requirement or prohibition which can be imposed by a DAPN under section 5(1). This might include, for example, a requirement to leave the place where person B is living, or a prohibition on contacting or approaching person B. In contrast with the DAPN, there is no exhaustive list of provisions which may be included in a DAPO and the sheriff may impose any prohibition or requirement that they consider necessary for the purpose of protecting person B from abusive behaviour by person A.
72. Section 9(3) provides that the sheriff can only include a prohibition or requirement in a DAPO if they consider it is necessary for the purpose of protecting person B from abusive behaviour by person A.
73. Section 9(4) provides that a sheriff can make provision in a DAPO which has effect outside the sheriff's sheriffdom so, for example, a prohibition on person A contacting or approaching person B could apply anywhere in Scotland, even if that is outside the sheriff's sheriffdom.
74. Section 9(5) provides for the period of time for which a DAPO has effect. Section 9(5)(a) provides that a DAPO has effect for such a period as is specified in the order, and that this period must not exceed two months. It should be noted that the duration of an interim order does not count towards the maximum duration of a DAPO. Section 9(5)(b) provides that an order may specify different periods for which different requirements or prohibitions may have effect. This provides flexibility to address any anticipated changes to person A or person B's circumstances which the sheriff is aware of at the time that they make the DAPO. By way of example, a sheriff may consider it necessary to prohibit person A from coming within a specified distance of person B's place of work or study but if it is known that person B will not be attending this place of work or study for the full duration of the order then it would not be necessary for such a prohibition to have effect for the full duration of the order.