



# Domestic Abuse (Protection) (Scotland) Act 2021

2021 asp 16

## PART 1

### DOMESTIC ABUSE PROTECTION NOTICES AND ORDERS

#### *Domestic abuse protection orders*

PROSPECTIVE

#### **12 Extension, variation or discharge of order**

- (1) The sheriff may, before the expiry of a domestic abuse protection order, extend, vary or discharge the order on the application of—
  - (a) the chief constable,
  - (b) person A,
  - (c) person B.
- (2) The sheriff may permit a person mentioned in subsection (1) to be a party to proceedings relating to an application made by another person mentioned in that subsection.
- (3) Before determining an application under subsection (1), the sheriff must give an opportunity to the chief constable, person A and person B (whether or not the chief constable or person B is a party to the proceedings) to make representations about the application.
- (4) When determining the application, the sheriff must—
  - (a) take into account—
    - (i) any views of person B of which the sheriff is aware as to whether or not person B wishes the order to be extended, varied or discharged, and
    - (ii) where person B's wishes are as mentioned in subsection (5), any reasons for that view of which the sheriff is aware,

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Domestic Abuse (Protection) (Scotland) Act 2021, Section 12. (See end of Document for details)*

- (b) take into account any other views of person B in relation to the application of which the sheriff is aware,  
(whether the sheriff is aware of those views, and any reasons for them, as a result of representations made to the sheriff by person B or otherwise).
- (5) The wishes of person B referred to in subsection (4) are—
  - (a) a wish for the order not to be extended,
  - (b) a wish for the order not to be varied so as to add a requirement or prohibition as proposed in the application,
  - (c) a wish for the order to be varied so as to remove a requirement or prohibition as proposed in the application,
  - (d) a wish for the order to be discharged.
- (6) When determining the application, the sheriff must also take into account—
  - (a) any representations made to the sheriff by the chief constable or person A,
  - (b) the welfare of any child whose interests the sheriff considers to be relevant to the application.
- (7) Subsection (8) applies where, on an application under subsection (1), the sheriff is considering—
  - (a) extending or discharging an order which includes provision which relates directly to a child, or
  - (b) varying an order to—
    - (i) include provision which would relate directly to a child, or
    - (ii) remove or alter provision which relates directly to a child.
- (8) The sheriff must—
  - (a) take such steps as are reasonable in the circumstances to give the child an opportunity to express views in relation to the matter, and
  - (b) take into account any views of the child of which the sheriff is aware (whether as a result of paragraph (a) or otherwise).
- (9) In taking account of views of the child under subsection (8)(b), the sheriff must take into account the child's age and understanding.
- (10) In this section and sections 13 and 14, a reference to extending a domestic abuse protection order includes a reference to extending the period for which a particular provision of the order has effect.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Domestic Abuse (Protection) (Scotland) Act 2021, Section 12.