

SCHEDULES

SCHEDULE 7

Section 87.

DOMESTIC VIOLENCE PROTECTION NOTICES AND ORDERS

Power to issue a domestic violence protection notice

1.—(1) A police officer not below the rank of superintendent (“the authorising officer”) may issue a domestic violence protection notice (“a DVPN”) under this paragraph.

(2) A DVPN may be issued to a person (“P”) aged 18 years or over if the authorising officer has reasonable grounds for believing that—

- (a) P has been violent towards, or has threatened violence towards, an associated person, and
- (b) the issue of the DVPN is necessary to protect that person from violence or a threat of violence by P.

(3) Before issuing a DVPN, the authorising officer must, in particular, consider—

- (a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the issuing of the DVPN (whether or not that person is an associated person),
- (b) the opinion of the person for whose protection the DVPN would be issued as to the issuing of the DVPN,
- (c) any representations made by P as to the issuing of the DVPN, and
- (d) in the case of provision included by virtue of sub-paragraph (8), the opinion of any other associated person who lives in the premises to which the provision would relate.

(4) The authorising officer must take reasonable steps to discover the opinions mentioned in sub-paragraph (3).

(5) But the authorising officer may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN.

(6) A DVPN must contain provision to prohibit P from molesting the person for whose protection it is issued.

(7) Provision required to be included by virtue of sub-paragraph (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

(8) If P lives in premises which are also lived in by a person for whose protection the DVPN is issued, the DVPN may also contain provision—

- (a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPN is issued,
- (b) to prohibit P from entering the premises,
- (c) to require P to leave the premises, or
- (d) to prohibit P from coming within such distance of the premises as may be specified in the DVPN.

Contents and service of a domestic violence protection notice

2.—(1) A DVPN must state—

- (a) the grounds on which it has been issued,
- (b) that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN,
- (c) that an application for a domestic violence protection order (“a DVPO”) under paragraph 4 will be heard within 48 hours of the time of service of the DVPN and a notice of the hearing will be given to P,
- (d) that the DVPN continues in effect until that application has been determined, and
- (e) the provision that a court of summary jurisdiction may include in a DVPO.

(2) A DVPN must be in writing and must be served on P personally by a constable.

(3) On serving P with a DVPN, the constable must ask P for an address for the purposes of being given the notice of the hearing of the application for the DVPO.

Breach of a domestic violence protection notice

3.—(1) A person arrested by virtue of paragraph 2(1)(b) for a breach of a DVPN must be held in custody and brought before the court of summary jurisdiction which will hear the application for the DVPO under paragraph 4—

- (a) before the end of the period of 24 hours beginning with the time of the arrest, or
- (b) if earlier, at the hearing of that application.

(2) If the person is brought before the court by virtue of sub-paragraph (1)(a), the court may remand the person.

(3) If the court adjourns the hearing of the application by virtue of paragraph 4(7), the court may remand the person.

Application for a domestic violence protection order

- 4.—(1) If a DVPN has been issued, a constable must apply for a DVPO.
- (2) The application must be made by complaint to a court of summary jurisdiction.
- (3) The application must be heard by the court not later than 48 hours after the DVPN was served pursuant to paragraph 2(2).
- (4) A notice of the hearing of the application must be given to P.
- (5) The notice is deemed given if it has been left at the address given by P under paragraph 2(3).
- (6) But if the notice has not been given because no address was given by P under paragraph 2(3), the court may hear the application for the DVPO if the court is satisfied that the constable applying for the DVPO has made reasonable efforts to give P the notice.
- (7) The court may adjourn the hearing of the application.
- (8) If the court adjourns the hearing, the DVPN continues in effect until the application has been determined.
- (9) On the hearing of an application for a DVPO, Article 118 of the Magistrates' Courts (Northern Ireland) Order 1981 (summons to witness and warrant for arrest) does not apply in relation to a person for whose protection the DVPO would be made, except where the person has given oral or written evidence at the hearing.

Conditions for and contents of a DVPO

- 5.—(1) The court may make a DVPO if two conditions are met.
- (2) The first condition is that the court is satisfied on the balance of probabilities that P has been violent towards, or has threatened violence towards, an associated person.
- (3) The second condition is that the court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by P.
- (4) Before making a DVPO, the court must, in particular, consider—
- (a) the welfare of any person under the age of 18 whose interests the court considers relevant to the making of the DVPO (whether or not that person is an associated person), and
 - (b) any opinion of which the court is made aware—
 - (i) of the person for whose protection the DVPO would be made, and
 - (ii) in the case of provision included by virtue of sub-paragraph (8), of any other associated person who lives in the premises to which the provision would relate.

(5) But the court may make a DVPO in circumstances where the person for whose protection it is made does not consent to the making of the DVPO.

(6) A DVPO must contain provision to prohibit P from molesting the person for whose protection it is made.

(7) Provision required to be included by virtue of sub-paragraph (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

(8) If P lives in premises which are also lived in by a person for whose protection the DVPO is made, the DVPO may also contain provision—

- (a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPO is made,
- (b) to prohibit P from entering the premises,
- (c) to require P to leave the premises, or
- (d) to prohibit P from coming within such distance of the premises as may be specified in the DVPO.

(9) A DVPO must state that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPO.

(10) A DVPO may be in force for—

- (a) no fewer than 14 days beginning with the day on which it is made, and
- (b) no more than 28 days beginning with that day.

(11) A DVPO must state the period for which it is to be in force.

Breach of a DVPO

6.—(1) A person arrested by virtue of paragraph 5(9) for a breach of a DVPO must be held in custody and brought before a court of summary jurisdiction within the period of 24 hours beginning with the time of the arrest.

(2) If the court finds that the person has breached the DVPO, the court may—

- (a) order the person to pay a sum not exceeding £5000; or
- (b) commit the person to prison for a fixed period not exceeding 2 months.

(3) Payment of any sum ordered to be paid under sub-paragraph (2)(a) is enforceable in the same manner as payment of a sum adjudged to be paid by a conviction.

(4) If the matter is not disposed of when the person is brought before the court under sub-paragraph (1), the court may remand the person.

(5) In section 44(5) of the Judicature (Northern Ireland) Act 1978 (appeals relating to punishment of contempt and other defaults) in paragraph (c) after “Article 112 of the Magistrates’ Courts (Northern Ireland) Order 1981” insert “or paragraph 6 of Schedule 7 to the Justice Act (Northern Ireland) 2015”.

Further provision about remand

7.—(1) This paragraph applies for the purposes of the remand of a person by a court under paragraph 3(2) or (3) or 6(4).

(2) The court may remand the person—

- (a) in custody, that is to say, commit the person to custody to be brought before the court at the end of the period of remand; or
- (b) on bail, that is to say, take from the person a recognizance conditioned for subsequent appearance before the court.

(3) If the person is remanded in custody, the court may give its consent to the person being remanded on bail in accordance with sub-paragraph (2)(b) in which event the court must fix the amount of the recognizance with a view to its being taken subsequently.

(4) Subject to sub-paragraphs (8), (11) and (12), the period for which a person is remanded in custody must not exceed—

- (a) in case where the person is before the court and consents, 28 days;
- (b) in any other case, 8 days.

(5) The period for which a person is remanded on bail must not exceed 28 days unless both the person and the relevant police officer consent.

(6) For the purposes of sub-paragraph (5) the relevant police officer is—

- (a) in the case of a remand prior to the hearing of an application for a DVPO, the authorising officer;
- (b) in any other case, the constable who applied for the DVPO.

(7) In the case of a person over the age of 21, the power to remand in custody includes power, on an application made by a police officer not below the rank of inspector, to commit that person to—

- (a) detention at a police station; or
- (b) the custody (otherwise than at a police station) of a constable.

(8) The period for which a person is remanded under sub-paragraph (7) must not exceed 3 days.

(9) A person shall not be committed to detention at a police station under sub-paragraph (7)(a) unless there is a need for the person to be so detained for the purposes of inquiries into a criminal offence; and, if a person is committed to such detention—

- (a) the person shall, as soon as that need ceases, be brought back before the court;
- (b) the person shall be treated as a person in police detention to whom the duties under Article 40 of the Police and Criminal Evidence (Northern

Ireland) Order 1989 (responsibilities in relation to persons detained) relate; and

(c) the detention of the person shall be subject to periodic review at the times set out in Article 41 of that Order (review of police detention).

(10) A person shall not be committed to the custody (otherwise than at a police station) of a constable under sub-paragraph (7)(b) unless there is a need for the person to be kept in such custody for the purposes of inquiries into a criminal offence; and if a person is committed to such custody, the person shall, as soon as that need ceases, be brought back before the court.

(11) If the court has reason to suspect that a medical report will be required, the power to remand a person may be exercised for the purpose of enabling a medical examination to take place and a report to be made; and if the person is remanded in custody for that purpose, the remand may not be for more than 21 days.

(12) If the court has reason to suspect that the person is suffering from mental illness or severe mental impairment within the meaning of the Mental Health (Northern Ireland) Order 1986, the court has the same power to remand a person under Article 42 of that Order (remand to hospital for medical report) as it has under that Article in the case of an accused person (within the meaning of that Article).

(13) The court may order a person to be brought before it at any time before the expiration of the period for which the person has been remanded.

(14) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with persons likely to give evidence at the hearing or otherwise obstruct the course of justice.

Guidance

8.—(1) The Department may issue guidance relating to the exercise by a constable of functions under this Schedule.

(2) A constable must have regard to any guidance issued under this paragraph when exercising a function to which the guidance relates.

(3) Before issuing guidance under this paragraph, the Department must consult—

- (a) the Chief Constable,
- (b) the Policing Board, and
- (c) such other persons as the Department thinks fit.

Interpretation

9.—(1) In this Schedule—

“associated person” means a person who is associated with P within the meaning of Article 3 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998;

“the authorising officer” has the meaning given by paragraph 1(1);

“a DVPN” has the meaning given by paragraph 1(1);

“a DVPO” has the meaning given by paragraph 2(1)(c);

“P” has the meaning given by paragraph 1(2).

(2) In calculating—

(a) when the period of 24 hours mentioned in paragraph 3(1)(a) or 6(1) ends, or

(b) when the period of 48 hours mentioned in paragraph 4(3) ends,

Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971 are to be disregarded.

(3) In calculating the length of any period of remand, the period is to be taken as beginning on the day after the person is remanded.

Pilot schemes

10.—(1) The Department may by order provide for any provision of paragraphs 1 to 9 to come into operation for a period of time to be specified in or under the order for the purpose of assessing the effectiveness of the provision.

(2) Such an order may make different provision for different areas.

(3) More than one order may be made under this paragraph.

(4) Provision included in an order under this paragraph does not affect the provision that may be included in relation to paragraphs 1 to 9 in an order under section 106.