

*These notes refer to the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 (c.2) which received Royal Assent on 1 March 2021*

# Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

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## EXPLANATORY NOTES

### OVERVIEW

#### Part 2 – Family and Civil Proceedings

##### Factors relevant to residence and contact orders

14. The Act amends the Children (Northern Ireland) Order 1995 to require a court considering an application for a residence or contact order to consider any conviction of the party applying for the order for a domestic abuse offence involving the child.

##### Prohibition of cross-examination in person

15. The Act prohibits, in family proceedings, cross-examination in person by a party who has been convicted of, given a caution for, or is charged with a specified offence, of a witness who is the victim, or alleged victim, of that offence; and by a party against whom an on-notice injunctive order is in force for the protection of a witness. It also creates a power for the Department to specify evidence of domestic abuse that, if adduced by a party to family proceedings, would prohibit cross-examination in person by a party to whom the evidence relates. The Act further gives a court a discretionary power to direct that a party may not cross-examine in person if it considers that such cross-examination is likely to diminish the quality of evidence or cause significant distress to the witness to be cross-examined.
16. Where cross-examination is prohibited, the Act makes provision enabling the court to appoint a legal representative to conduct the cross-examination on behalf of the party prohibited from so doing, the cost of which will be paid by the Department. It also allows the Department to issue guidance in connection with the role of the appointed legal representative.
17. With regards to civil proceedings, the Act gives a court a discretionary power to prohibit cross-examination in person if certain conditions are met. There is also provision for the court to appoint a legal representative, funded by the Department, to carry out the cross-examination instead and for the Department to issue guidance about their role in the proceedings.

**Rules of court on special measures directions in family and civil proceedings**

18. The Act requires rules of court to make provision enabling a court to make a special measures direction in family proceedings in relation to a party or witness who is a victim of, or at risk of, domestic abuse, where the court considers that a direction should be made.
19. The Act also requires court rules to make provision enabling a court hearing civil proceedings to make a special measures direction in relation to a party or witness who is a victim, or alleged victim, of specified offences, where this is likely to diminish the quality of their evidence, or, if a party, their participation in the proceedings and the court considers that a direction should be made.