

### SCHEDULE 3

#### PROVISIONS AS TO MAKING, VARIATION AND REVOCATION OF PROTECTION ORDERS

##### *Making of protection order*

5.—(1) If any representation or objection duly made is not withdrawn, the Scottish Ministers may, after considering the same, forthwith make a protection order or may cause a local inquiry to be held.

(2) The Scottish Ministers shall appoint a person to hold the inquiry and to report thereon to them.

(3) Notification of the time when and the place where the inquiry is to be held shall be sent to any person who has duly made and has not withdrawn representations or objections to the proposals, and shall be published in such newspaper or newspapers as the Scottish Ministers may direct.

(4) The person appointed to hold the inquiry may, on the motion of any party to the inquiry or on that person's own motion, serve a notice in writing on any person requiring that person to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in that person's custody or under that person's control which relate to any matter in question at the inquiry, provided that—

(i) no person shall be required in obedience to such a notice to attend at any place which is more than 16 kilometres from the place where that person resides unless the necessary expenses are paid or tendered to that person; and

(ii) nothing in this sub-paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which that person would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

(5) The person appointed to hold the inquiry may administer oaths and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

(6) Any person who refuses or wilfully neglects to attend in obedience to a notice under sub-paragraph (4) or to give evidence or who wilfully alters, suppresses, conceals, destroys, or refuses to produce, any book or document which that person may be required to produce by such a notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale or to imprisonment for a period not exceeding 3 months.

(7) The Scottish Ministers may make determinations as to the expenses incurred by them in relation to the inquiry (including such reasonable sum as they may determine for the services of the person appointed to hold the inquiry) and as to the expenses incurred by the parties to the inquiry and as to the parties by whom such expenses shall be paid.

(8) Any determination of the Scottish Ministers under sub-paragraph (7) requiring any party to pay expenses may be enforced in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.