



# Domestic Abuse Act 2021

## 2021 CHAPTER 17

### PART 3

#### POWERS FOR DEALING WITH DOMESTIC ABUSE

##### *Domestic abuse protection orders*

#### **44 Variation and discharge of orders**

- (1) A court may vary or discharge a domestic abuse protection order made by that or any other court.

This is subject to section 45.

- (2) A court may vary or discharge a domestic abuse protection order under this section—
- (a) on the application of a person mentioned in subsection (3), or
  - (b) in any case in which it could make a domestic abuse protection order under section 31.
- (3) The persons referred to in subsection (2)(a) are—
- (a) the person for whose protection the order was made;
  - (b) the person against whom the order was made (“P”);
  - (c) where the order was made under section 28, the person who applied for the order;
  - (d) the chief officer of police of the force maintained for any police area in which P resides;
  - (e) the chief officer of police of any other force maintained for a police area who believes that P is in that police area or is intending to come to it.
- (4) Before deciding whether to vary or discharge an order under this section, the court must hear from—
- (a) any relevant chief officer of police who wishes to be heard, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) in a case where the person for whose protection the order was made is seeking to discharge the order, or to remove or make less onerous any requirement imposed by the order, the person for whose protection it was made.
- (5) For the purposes of subsection (4)(a) each of the following is a “relevant chief officer of police”—
  - (a) where the order was made on an application by a chief officer of police, that chief officer;
  - (b) the chief officer of police of the force maintained for any police area in which P resides;
  - (c) the chief officer of police of any other force maintained for a police area who believes that P is in that police area or is intending to come to it.
- (6) Section 33 (matters to be considered before making an order) applies in relation to the variation or discharge of a domestic abuse protection order as it applies in relation to the making of such an order, but as if references to the person for whose protection the order would be made were references to the person for whose protection the order was made.
- (7) Section 34 (making of orders without notice) applies in relation to the variation of a domestic abuse protection order as it applies in relation to the making of such an order, but as if—
  - (a) references to the person for whose protection the order would be made were references to the person for whose protection the order was made,
  - (b) subsection (2) were omitted, and
  - (c) the reference in subsection (4) to making representations about the order were a reference to making representations about the variation.
- (8) The court may make any order varying or discharging a domestic abuse protection order that it considers appropriate.

This is subject to subsections (9) to (13).
- (9) The court may include an additional requirement in the order, or extend the period for which the order, or a requirement imposed by the order, has effect, only if it is satisfied that it is necessary to do so in order to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.
- (10) The court may not extend the period for which an electronic monitoring requirement has effect by more than 12 months at a time.
- (11) The court may remove any requirement imposed by the order, or make such a requirement less onerous, only if satisfied that the requirement as imposed is no longer necessary to protect the person for whose protection the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.
- (12) If it appears to the court that any conditions necessary for a requirement to be imposed are no longer met, the court—
  - (a) may not extend the requirement, and
  - (b) must remove the requirement.
- (13) The court may discharge the order only if satisfied that the order is no longer necessary to protect the person for whose protection it was made from domestic abuse, or the risk of domestic abuse, carried out by P.