

Domestic Abuse (Protection) (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 21

Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Humza Yousaf

1 In section 1, page 1, line 19, at end insert—

<() For the purposes of subsection (1)(b)(ii), the reference to person A living with person B is a reference to those persons living, at the same time, in any place where either person A or person B lives to any extent.>

Section 5

Humza Yousaf

2 In section 5, page 3, line 31, leave out from first <the> to end of line 32 and insert <any place where person B lives (whether or not it is also a place where person A lives, and even if it is person A's only or main place of residence),>

Humza Yousaf

3 In section 5, page 3, line 33, leave out <that home> and insert <any such place>

Humza Yousaf

4 In section 5, page 3, line 34, leave out <that home> and insert <any such place>

Humza Yousaf

5 In section 5, page 3, line 35, leave out <that home> and insert <any such place>

Humza Yousaf

6 In section 5, page 3, line 37, leave out <that home> and insert <any such place>

Section 8

Humza Yousaf

9 In section 8, page 5, line 31, leave out <only if>

Humza Yousaf

- 10 In section 8, page 5, line 32, at beginning insert <only if>

Humza Yousaf

- 11 In section 8, page 5, leave out line 38 and insert—
<(b) without the consent of person B (but see subsection (5A)).>

Humza Yousaf

- 12 In section 8, page 6, line 8, at end insert—
<(5A) 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 an order to be made, and
(ii) where person B does not wish an order to be made, any reasons for that view of which the sheriff is aware,
(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).>

Humza Yousaf

- 13 In section 8, page 6, line 9, after <must> insert <also>

Humza Yousaf

- 14 In section 8, page 6, leave out lines 11 to 13

Section 12

Humza Yousaf

- 15 In section 12, page 8, line 28, at end insert—
<(3A) 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 (3B), any reasons for that view of which the sheriff is aware,
(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).
(3B) The wishes of person B referred to in subsection (3A) 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.>

Humza Yousaf

- 16 In section 12, page 8, line 29, after <must> insert <also>

Humza Yousaf

- 17 In section 12, page 8, leave out lines 31 to 33

Section 13

Humza Yousaf

- 18 In section 13, page 10, line 9, at end insert—
 <() The sheriff may extend, vary or discharge a domestic abuse protection order without the consent of person B (but see section 12(3A)).>

Section 14

Humza Yousaf

- 19 In section 14, page 10, line 29, at end insert <,
 (c) without the consent of person B.>

After section 16

Liam Kerr

- 20 After section 16, insert—
 <**Applications under sections 8(1) and 12(1): power to specify additional applicants**
 (1) The Scottish Ministers may by regulations make provision enabling a person mentioned in subsection (2) to make, in circumstances specified in the regulations, an application—
 (a) under section 8(1)(b), for a domestic abuse protection order,
 (b) under section 12(1), for a domestic abuse protection order to be extended, varied or discharged.
 (2) The persons referred to in subsection (1) are—
 (a) a local authority,
 (b) a local authority landlord,
 (c) a registered social landlord,

- (d) any other person who the Scottish Ministers consider appropriate.
- (3) Before making regulations under subsection (1), the Scottish Ministers must—
 - (a) consult—
 - (i) each person to which the regulations relate, or
 - (ii) to the extent that the regulations enable all persons of a particular type to make an application as mentioned in subsection (1), such persons as appear to the Scottish Ministers to represent the interests of that type of person, and
 - (b) consult such other persons as the Scottish Ministers consider appropriate.
- (4) Regulations under subsection (1) may—
 - (a) modify any enactment (including this Act),
 - (b) make incidental, supplementary, consequential, transitional, transitory or saving provision,
 - (c) make different provision for different purposes.
- (5) Regulations under subsection (1) are subject to the affirmative procedure.
- (6) In this section—
 - “local authority landlord” has the meaning given by section 11(3) of the Housing (Scotland) Act 2001,
 - “registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010.>

Rhoda Grant

- 21 After section 16, insert—

<Relationship with orders regulating contact and residence

Relationship of notice or order with order regulating contact or residence

For the avoidance of doubt—

- (a) nothing in a court order which regulates contact with, or the residence of, a child limits the requirements or prohibitions that may be imposed by a notice or order under this Part, and
- (b) accordingly, it is not a defence to a charge of committing an offence under section 7(1) or 16(1) that person A was doing something which person A was entitled to do by virtue of such a court order.>

Liam Kerr

- 22 After section 16, insert—

<Reporting

Reporting on operation of Part

- (1) The Scottish Ministers must as soon as practicable after the end of the reporting period lay before the Scottish Parliament a report setting out, in relation to that period—
 - (a) the numbers of domestic abuse protection notices, domestic abuse protection orders and interim domestic abuse protection orders made,

- (b) the number of extensions of domestic abuse protection orders,
 - (c) in respect of the offence in section 7(1)—
 - (i) the number of cases for which criminal proceedings were undertaken, and
 - (ii) the number of convictions in criminal proceedings,
 - (d) in respect of the offence in section 16(1)—
 - (i) the number of cases for which criminal proceedings were undertaken, and
 - (ii) the number of convictions in criminal proceedings, and
 - (e) information about the experience of persons who were, in respect of domestic abuse protection notices, domestic abuse protection orders or interim domestic abuse protection orders, person B.
- (2) The report may include any other information that the Scottish Ministers consider appropriate about—
- (a) the operation of this Part during the reporting period, or
 - (b) the experience of any persons affected by its operation during the reporting period (such as, for example, children to whom provision in domestic abuse protection orders related directly).
- (3) The reporting period is the period of 3 years beginning with the day on which this Part comes into force.>

Section 18

Humza Yousaf

- 7 In section 18, page 13, line 32, at end insert—
- <() in subsection (2B)—
- (i) the words “for recovery of possession” are repealed,
 - (ii) after “paragraph 2” insert “or 15A”,
 - (iii) at the end insert “or, as the case may be, terminating a tenant’s interest in the tenancy.”,>

Humza Yousaf

- 8 In section 18, page 14, line 4, at end insert—
- <(5D) The landlord must, in exercising the function conferred by subsection (5C), have regard to any guidance issued by the Scottish Ministers about the exercise of that function.
- (5E) Before publishing any guidance under subsection (5D), the Scottish Ministers must consult such persons as they consider appropriate.”.>

Rhoda Grant

- 23 In section 18, page 15, leave out lines 21 and 22 and insert—
- <“(5C) An order under subsection (3ZA) has the effect of—
- (a) bringing to an end the tenant’s interest in the tenancy, and

(b) the tenancy passing to person P by operation of law,
on the date specified in the order.

(5D) In this section, “person P” is to be construed in accordance with paragraph 15A of schedule 2.”.>

Rhoda Grant

24 In section 18, page 15, line 22, at end insert—

<() after subsection (6) insert—

- “(7) The landlord must, no later than 28 days after the date of termination of a tenancy which is terminated on the ground set out in paragraph 15A of schedule 2 (or on grounds including that ground), offer a tenancy of the house (beginning as soon as reasonably practicable) to person P.
- (8) But the landlord need not comply with the duty imposed by subsection (7) if it is impossible or inappropriate to do so because of circumstances relating to person P.
- (9) The landlord must have regard to any guidance issued by the Scottish Ministers about subsections (7) and (8).
- (10) The references in subsections (7) and (8) to person P are to the person who, in relation to the house, is person P within the meaning of paragraph 15A of schedule 2.”.>

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