

Domestic Abuse Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as 422—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Sajid Javid has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Domestic Abuse Bill are compatible with the Convention rights.

Domestic Abuse Bill

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Make provision in relation to domestic abuse; to make provision for and in connection with the establishment of a Domestic Abuse Commissioner; to prohibit cross-examination in person in family proceedings in certain circumstances; to make provision about certain violent or sexual offences, and offences involving other abusive behaviour, committed outside the United Kingdom; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

DOMESTIC ABUSE: ENGLAND AND WALES

CHAPTER 1

DEFINITION OF “DOMESTIC ABUSE”

- 1 Definition of “domestic abuse”** 5
- (1) This section defines “domestic abuse” for the purposes of this Part.
- (2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—
- (a) A and B are each aged 16 or over and are personally connected to each other, and
 - (b) the behaviour is abusive. 10
- (3) Behaviour is “abusive” if it consists of any of the following—
- (a) physical or sexual abuse;
 - (b) violent or threatening behaviour;
 - (c) controlling or coercive behaviour; 15
 - (d) economic abuse (see subsection (4));
 - (e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

- (4) “Economic abuse” means any behaviour that has a substantial adverse effect on B’s ability to—
- (a) acquire, use or maintain money or other property, or
 - (b) obtain goods or services.
- (5) For the purposes of this Part A’s behaviour may be behaviour “towards” B despite the fact that it consists of conduct directed at another person (for example, B’s child).
- (6) References in this Part to being abusive towards another person are to be read in accordance with this section.
- (7) For the meaning of “personally connected”, see section 2.

2 Definition of “personally connected”

- (1) For the purposes of this Part, two people are “personally connected” to each other if any of the following applies—
- (a) they are, or have been, married to each other;
 - (b) they are, or have been, civil partners of each other;
 - (c) they have agreed to marry one another (whether or not the agreement has been terminated);
 - (d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
 - (e) they are, or have been, in an intimate personal relationship with each other;
 - (f) there is a child in relation to whom they each have a parental relationship (see subsection (2));
 - (g) they are relatives.
- (2) For the purposes of subsection (1)(f) a person has a parental relationship in relation to a child if—
- (a) the person is a parent of the child, or
 - (b) the person has, or has had, parental responsibility for the child.
- (3) In this section—
- “child” means a person under the age of 18 years;
 - “civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act 2004;
 - “parental responsibility” has the same meaning as in the Children Act 1989 (see section 3 of that Act);
 - “relative” has the meaning given by section 63(1) of the Family Law Act 1996.

CHAPTER 2

THE DOMESTIC ABUSE COMMISSIONER

Domestic Abuse Commissioner

3 Appointment of Commissioner

- (1) The Secretary of State must appoint a person as the Domestic Abuse Commissioner (“the Commissioner”). 5
- (2) The Commissioner is to hold and vacate office in accordance with the terms and conditions of the Commissioner’s appointment.
- (3) The Commissioner is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown. 10

4 Funding

- (1) The Secretary of State may make payments to the Commissioner out of money provided by Parliament for the purpose of enabling the Commissioner to meet expenditure incurred in the exercise of the Commissioner’s functions.
- (2) Payments are to be made at such times, and subject to any such conditions, as the Secretary of State considers appropriate. 15
- (3) The Secretary of State may pay, or make provision for paying, to or in respect of the Commissioner –
 - (a) remuneration;
 - (b) allowances; 20
 - (c) sums by way of or in respect of pensions.

5 Staff etc

- (1) The Secretary of State must provide the Commissioner with –
 - (a) such staff, and
 - (b) such accommodation, equipment and other facilities, 25as the Secretary of State considers necessary for the carrying out of the Commissioner’s functions.
- (2) Before providing any staff, the Secretary of State must –
 - (a) consult the Commissioner, and
 - (b) obtain the Commissioner’s approval as to the persons to be provided as staff. 30
- (3) The Secretary of State must consult the Commissioner before providing any accommodation, equipment or other facilities.
- (4) A person employed in the civil service of the State continues to be employed in the civil service of the State during any period of service as a member of the staff mentioned in subsection (1)(a). 35

Functions of Commissioner

6 General functions of Commissioner

- | | | |
|-----|---|----|
| (1) | The Commissioner must encourage good practice in – | |
| | (a) the prevention of domestic abuse; | |
| | (b) the prevention, detection, investigation and prosecution of offences involving domestic abuse; | 5 |
| | (c) the identification of – | |
| | (i) people who carry out domestic abuse; | |
| | (ii) victims of domestic abuse; | |
| | (iii) children affected by domestic abuse; | 10 |
| | (d) the provision of protection and support to people affected by domestic abuse. | |
| (2) | The things that the Commissioner may do in pursuance of the general duty under subsection (1) include – | |
| | (a) assessing, monitoring, and publishing information about, the provision of services to people affected by domestic abuse; | 15 |
| | (b) making recommendations to any public authority about the exercise of its functions; | |
| | (c) undertaking or supporting (financially or otherwise) the carrying out of research; | 20 |
| | (d) providing information, education or training; | |
| | (e) taking other steps to increase public awareness of domestic abuse; | |
| | (f) consulting public authorities, voluntary organisations and other persons; | |
| | (g) co-operating with, or working jointly with, public authorities, voluntary organisations and other persons, whether in England and Wales or outside the United Kingdom. | 25 |
| (3) | Subject to subsection (4), the Commissioner may not do anything in pursuance of the general duty under subsection (1) that – | |
| | (a) relates to a devolved Welsh authority, or | 30 |
| | (b) otherwise relates to Welsh devolved matters. | |
| (4) | Subsection (3) does not prevent the Commissioner from – | |
| | (a) doing anything falling within subsection (2)(c), (d) or (e), to the extent that the thing done does not relate to Welsh devolved matters; | |
| | (b) doing anything falling within subsection (2)(f) or (g); | 35 |
| | (c) disclosing information to a devolved Welsh authority, or information which relates to Welsh devolved matters, under section 16. | |
| (5) | For the purposes of this section something relates to Welsh devolved matters so far as it relates to – | |
| | (a) any matter provision about which would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly, or | 40 |
| | (b) (so far as it is not within paragraph (a)), any matter functions with respect to which are exercisable by the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government or the National Assembly for Wales Commission. | 45 |

- (6) In this section—
“devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006;
“public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal. 5

7 Reports

- (1) The Commissioner may report to the Secretary of State on any matter relating to domestic abuse.
- (2) The Commissioner must publish every report made under this section.
- (3) Before publishing a report under this section, the Commissioner must send a draft of the report to the Secretary of State. 10
- (4) The Secretary of State may direct the Commissioner to omit material from any report under this section before publication if the Secretary of State thinks the publication of that material—
(a) might jeopardise the safety of any person, or 15
(b) might prejudice the investigation or prosecution of an offence.
- (5) The Secretary of State must consult the Commissioner before making any direction under subsection (4).
- (6) The Commissioner must arrange for a copy of any report published under this section to be laid before Parliament. 20

8 Advice and assistance

- (1) The Commissioner may provide the Secretary of State with any advice or assistance that the Secretary of State may request.
- (2) The Commissioner may, at the request of any other person, provide the person with advice or assistance relating to the exercise of any of the person’s functions, or the carrying out of any activities by the person, in relation to people affected by domestic abuse. 25
- (3) The Commissioner may charge a person for providing the person with advice or assistance under subsection (2).
- (4) The Commissioner must publish any advice given to a person under subsection (2). 30
- (5) Before publishing any advice given under this section, the Commissioner must send a draft of what is proposed to be published to the Secretary of State.
- (6) The Secretary of State may direct the Commissioner to omit anything contained in the advice before publication if the Secretary of State thinks the publication of that material—
(a) might jeopardise the safety of any person, or
(b) might prejudice the investigation or prosecution of an offence. 35
- (7) The Secretary of State must consult the Commissioner before making any direction under subsection (6). 40

9 Incidental powers

- (1) The Commissioner may do anything which the Commissioner considers will facilitate, or is incidental or conducive to, the carrying out of the Commissioner’s functions.
- (2) But the Commissioner may not borrow money. 5

Framework document

10 Framework document

- (1) The Secretary of State must issue a document (a “framework document”) that deals with matters relating to the Commissioner.
- (2) The matters that may be dealt with by a framework document include (among other things) – 10
 - (a) matters relating to governance, funding and staffing;
 - (b) matters relating to the exercise of functions of the Commissioner.
- (3) The Commissioner must have regard to the framework document when exercising any of the Commissioner’s functions. 15
- (4) The Secretary of State must have regard to the framework document when exercising any functions in relation to the Commissioner.
- (5) The Secretary of State – 20
 - (a) must keep the framework document under review, and
 - (b) may issue a revised framework document.
- (6) The Secretary of State – 25
 - (a) must consult the Commissioner in preparing or revising a framework document, and
 - (b) may not issue a framework document without the agreement of the Commissioner.
- (7) The Secretary of State must consult the Welsh Ministers before issuing – 30
 - (a) the first framework document under this section, or
 - (b) any other framework document which is, in the opinion of the Secretary of State, significantly different from the framework document it replaces.
- (8) The Secretary of State must – 35
 - (a) arrange for any framework document issued under this section to be published in the manner which the Secretary of State considers appropriate,
 - (b) send a copy of the framework document to the Welsh Ministers, and
 - (c) lay a copy of the framework document before Parliament.
- (9) The Welsh Ministers must lay before the National Assembly for Wales a copy of any framework document sent to them under subsection (8)(b).

Advisory Board

11 Advisory Board

- (1) The Commissioner must establish an Advisory Board (“the Board”) for the purposes of providing advice to the Commissioner about the exercise of the Commissioner’s functions. 5
- (2) The Board is to consist of not fewer than six and not more than ten members appointed by the Commissioner.
- (3) Each member of the Board is to hold and vacate office in accordance with the terms and conditions of the member’s appointment.
- (4) The members of the Board must include— 10
 - (a) at least one person appearing to the Commissioner to represent the interests of victims of domestic abuse;
 - (b) at least one person appearing to the Commissioner to represent the interests of charities and other voluntary organisations that work with victims of domestic abuse in England; 15
 - (c) at least one person appearing to the Commissioner to represent the interests of providers of health care services in England;
 - (d) at least one person appearing to the Commissioner to represent the interests of providers of social care services in England;
 - (e) at least one person appearing to the Commissioner to represent the interests of persons with functions relating to policing or criminal justice; 20
 - (f) at least one person appearing to the Commissioner to have academic expertise in relation to domestic abuse.
- (5) The Commissioner may pay such remuneration or allowances to members of the Board as the Commissioner may determine. 25
- (6) In this section—
 - “health care services” means services relating to health care (within the meaning of section 9 of the Health and Social Care Act 2008);
 - “social care services” means services relating to social care (within the meaning of that section). 30

Strategic plans and annual reports

12 Strategic plans

- (1) The Commissioner must, as soon as reasonably practicable after the Commissioner’s appointment, prepare and publish a strategic plan. 35
- (2) A strategic plan is a plan setting out how the Commissioner proposes to exercise the Commissioner’s functions in the period to which the plan relates, which must be not less than one year and not more than three years.
- (3) A strategic plan must in particular— 40
 - (a) state the Commissioner’s objectives and priorities for the period to which the plan relates;
 - (b) state any matters on which the Commissioner proposes to report under section 7 during that period;

- (c) state any other activities the Commissioner proposes to undertake during that period in the exercise of the Commissioner’s functions.
- (4) The Commissioner must, before the end of the period to which a strategic plan relates (“the current period”) –
 - (a) prepare a strategic plan for a period immediately following the current period, and
 - (b) publish that plan. 5
- (5) At any time during the period to which a strategic plan relates, the Commissioner –
 - (a) may revise the strategic plan, and
 - (b) must publish any revised plan. 10
- (6) In preparing or revising a strategic plan, the Commissioner must consult –
 - (a) the Secretary of State,
 - (b) the Advisory Board established under section 11, and
 - (c) such other persons as the Commissioner considers appropriate. 15
- (7) The Commissioner must arrange for a copy of any plan (or revised plan) published under this section to be laid before Parliament.

13 Annual reports

- (1) As soon as reasonably practicable after the end of each financial year, the Commissioner must submit to the Secretary of State an annual report on the exercise of the Commissioner’s functions during the year. 20
- (2) The annual report must include –
 - (a) an assessment of the extent to which the Commissioner’s objectives and priorities have been met in that year;
 - (b) a statement of the matters on which the Commissioner has reported under section 7 during the year;
 - (c) a statement of the other activities the Commissioner has undertaken during the year in the exercise of the Commissioner’s functions. 25
- (3) The Commissioner must arrange for a copy of every annual report under this section to be laid before Parliament (but see subsection (4)). 30
- (4) The Secretary of State may direct the Commissioner to omit material from any report under this section before it is laid before Parliament if the Secretary of State thinks the publication of that material –
 - (a) might jeopardise the safety of any person, or
 - (b) might prejudice the investigation or prosecution of an offence. 35
- (5) The Secretary of State must consult the Commissioner before making any direction under subsection (4).
- (6) In this section “financial year” means –
 - (a) the period beginning with the day on which the first Domestic Abuse Commissioner takes office and ending with the following 31 March, and
 - (b) each successive period of 12 months. 40

Duties of public authorities in relation to Commissioner

14 Duty to co-operate with Commissioner

- (1) The Commissioner may request a specified public authority to co-operate with the Commissioner in any way that the Commissioner considers necessary for the purposes of the Commissioner’s functions. 5
- (2) A specified public authority must, so far as reasonably practicable, comply with a request made to it under this section.
- (3) In this section “specified public authority” means any of the following –
 - (a) a chief officer of police of a police force maintained for a police area in England and Wales; 10
 - (b) a local policing body;
 - (c) the Chief Constable of the British Transport Police Force;
 - (d) the British Transport Police Authority;
 - (e) the Ministry of Defence Police;
 - (f) an immigration officer or other official of the Secretary of State exercising functions in relation to immigration or asylum; 15
 - (g) the Crown Prosecution Service;
 - (h) the Parole Board;
 - (i) the Criminal Cases Review Commission;
 - (j) an English local authority; 20
 - (k) an NHS body in England;
 - (l) Her Majesty’s Inspectors of Constabulary;
 - (m) Her Majesty’s Chief Inspector of the Crown Prosecution Service;
 - (n) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills; 25
 - (o) a body approved as an independent inspectorate under section 106 of the Education and Skills Act 2008 (inspection of registered independent educational institutions);
 - (p) the Care Quality Commission;
 - (q) Monitor. 30
- (4) The Secretary of State may by regulations amend this section so as to –
 - (a) add a public authority as a specified public authority for the purposes of this section;
 - (b) remove a public authority added by virtue of paragraph (a);
 - (c) vary any description of a public authority. 35
- (5) Before making regulations under subsection (4) the Secretary of State must consult the Commissioner.
- (6) Regulations under subsection (4) may not contain provision adding a devolved Welsh authority as a specified public authority for the purposes of this section.
- (7) In this section – 40
 - “devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006;
 - “English local authority” means –
 - (a) a county council or district council in England,
 - (b) a London borough council, 45

- (c) the Greater London Authority,
 - (d) the Common Council of the City of London, or
 - (e) the Council of the Isles of Scilly;
- “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971; 5
- “NHS body in England” means –
- (a) a National Health Service trust in England established under section 25 of the National Health Service Act 2006,
 - (b) an NHS foundation trust within the meaning given by section 30 of that Act, 10
 - (c) the National Health Service Commissioning Board,
 - (d) a clinical commissioning group established under section 14D of that Act, or
 - (e) the National Health Service Trust Development Authority;
- “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998, other than a court or tribunal. 15

15 Duty to respond to Commissioner’s recommendations

- (1) This section applies where the Commissioner publishes a report under section 7 containing recommendations in relation to –
 - (a) any public authority that is a specified public authority for the purposes of section 14; 20
 - (b) any government department in the charge of a Minister.
- (2) The relevant person must prepare comments on the report.
- (3) In this section “the relevant person” means –
 - (a) the public authority, or 25
 - (b) the Minister in charge of the government department, as the case may be.
- (4) The comments must include, in respect of each recommendation made in the report, an explanation of –
 - (a) the action which the relevant person has taken, or proposes to take, in response to the recommendation, or 30
 - (b) why the relevant person has not taken, or does not propose to take, any action in response.
- (5) The relevant person must arrange for the comments to be published in such manner as the person considers appropriate. 35
- (6) The comments must be published before the end of the period of 56 days beginning with the day on which the report is published.
- (7) The relevant person must send a copy of anything published under subsection (5) to –
 - (a) the Commissioner, and 40
 - (b) where the relevant person is a specified public authority for the purposes of section 14, the Secretary of State.

Disclosure of information

16 Disclosure of information

- (1) The Commissioner may disclose to a person any information received by the Commissioner in connection with the Commissioner’s functions if the disclosure is made for a purpose connected with a function of the Commissioner. 5
- (2) A person may disclose any information to the Commissioner if the disclosure is made for the purposes of enabling or assisting the Commissioner to exercise any function.
- (3) A disclosure of information authorised by this section does not breach— 10
- (a) any obligation of confidence owed by the person making the disclosure in relation to that information, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (4) But nothing in this Chapter requires or authorises any of the following— 15
- (a) the disclosure of any patient information (see subsection (5));
 - (b) the making of a disclosure which, although made in the exercise of a function under this Chapter, would contravene the data protection legislation (see subsection (6));
 - (c) the making of a disclosure which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016. 20
- (5) “Patient information” means information (however recorded) which—
- (a) relates to— 25
 - (i) the physical or mental health or condition of an individual,
 - (ii) the diagnosis of an individual’s condition, or
 - (iii) an individual’s care or treatment,or is (to any extent) derived directly or indirectly from information relating to any of those matters, and
 - (b) identifies the individual or enables the individual to be identified (either by itself or in combination with other information). 30
- (6) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).
- (7) This section does not affect any power to disclose that exists apart from this section.

Miscellaneous and supplementary 35

17 Restriction on exercise of functions in individual cases

- (1) The Commissioner may not exercise any function in relation to an individual case.
- (2) But subsection (1) does not prevent the Commissioner considering individual cases and drawing conclusions about them for the purpose of, or in the context of, considering a general issue. 40

18 Amendments relating to Commissioner

- (1) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), at the appropriate place insert –
“Domestic Abuse Commissioner.”
- (2) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert –
“The Domestic Abuse Commissioner.” 5

CHAPTER 3

POWERS FOR DEALING WITH DOMESTIC ABUSE

Domestic abuse protection notices 10

19 Power to give a domestic abuse protection notice

- (1) A senior police officer may give a domestic abuse protection notice to a person (“P”) if conditions A and B are met.
- (2) A domestic abuse protection notice is a notice prohibiting P from being abusive towards a person aged 16 or over to whom P is personally connected.
(Section 20 contains further provision about the provision that may be made by notices.) 15
- (3) Condition A is that the senior police officer has reasonable grounds for believing that P has been abusive towards a person aged 16 or over to whom P is personally connected. 20
- (4) Condition B is that the senior police officer has reasonable grounds for believing that it is necessary to give the notice to protect that person from domestic abuse, or the risk of domestic abuse, carried out by P.
- (5) It does not matter whether the abusive behaviour referred to in subsection (3) took place in England and Wales or elsewhere. 25
- (6) A domestic abuse protection notice may not be given to a person who is under the age of 18.
- (7) A domestic abuse protection notice has effect in all parts of the United Kingdom.
- (8) In this Chapter – 30
 - “senior police officer” means a member of a relevant police force who is a constable of at least the rank of inspector;
 - “relevant police force” means –
 - (a) a force maintained by a local policing body;
 - (b) the British Transport Police Force;
 - (c) the Ministry of Defence Police. 35

20 Provision that may be made by notices

- (1) A domestic abuse protection notice may provide that the person to whom the notice is given (“P”) –

- (a) may not contact the person for whose protection the notice is given;
- (b) may not come within a specified distance of any premises in England or Wales in which that person lives.

“Specified” means specified in the notice.

- (2) If P lives in premises in England or Wales in which the person for whose protection the notice is given also lives, the notice may also contain provision –
 - (a) prohibiting P from evicting or excluding that person from the premises;
 - (b) prohibiting P from entering the premises;
 - (c) requiring P to leave the premises.

21 Matters to be considered before giving a notice 10

- (1) Before giving a domestic abuse protection notice to a person (“P”), a senior police officer must, among other things, consider the following –
 - (a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the giving of the notice (whether or not that person and P are personally connected); 15
 - (b) the opinion of the person for whose protection the notice would be given as to the giving of the notice;
 - (c) any representations made by P about the giving of the notice;
 - (d) in a case where the notice includes provision relating to premises lived in by the person for whose protection the notice would be given, the opinion of any relevant occupant as to the giving of the notice. 20
- (2) In subsection (1)(d) “relevant occupant” means a person other than P or the person for whose protection the notice would be given –
 - (a) who lives in the premises, and
 - (b) who is personally connected to – 25
 - (i) the person for whose protection the notice would be given, or
 - (ii) if P also lives in the premises, P.
- (3) The officer must take reasonable steps to discover the opinions mentioned in subsection (1).
- (4) It is not necessary for the person for whose protection a domestic abuse protection notice is given to consent to the giving of the notice. 30

22 Further requirements in relation to notices

- (1) A domestic abuse protection notice must be in writing.
- (2) A domestic abuse protection notice given to a person (“P”) must state –
 - (a) the grounds on which it has been given, 35
 - (b) that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the notice,
 - (c) that an application for a domestic abuse protection order under section 25 will be heard by a magistrates’ court within 48 hours of the time of giving the notice (disregarding any days mentioned in section 26(3)) and a notice of the hearing will be given to P, 40
 - (d) that the notice continues in effect until that application has been determined or withdrawn, and

-
- (e) the provision that a magistrates’ court may include in a domestic abuse protection order.
- (3) The notice must be served on P personally by a constable.
- (4) On serving the notice on P, the constable must ask P for an address at which P may be given the notice of the hearing of the application for the domestic abuse protection order. 5
- (5) Subsection (6) applies where –
- (a) a senior police officer gives a domestic abuse protection notice to a person (“P”) who the officer believes is a person subject to service law in accordance with sections 367 to 369 of the Armed Forces Act 2006, 10
- (b) the notice includes provision by virtue of section 20(2) prohibiting P from entering premises, or requiring P to leave premises, and
- (c) the officer believes that the premises are relevant service accommodation.
- (6) The officer must make reasonable efforts to inform P’s commanding officer of the giving of the notice. 15
- (7) In this section –
- “commanding officer” has the meaning given by section 360 of the Armed Forces Act 2006;
- “relevant service accommodation” means premises which fall within paragraph (a) of the definition of “service living accommodation” in section 96(1) of that Act. 20
- 23 Breach of notice**
- (1) If a constable has reasonable grounds for believing that a person is in breach of a domestic abuse protection notice, the constable may arrest the person without warrant. 25
- (2) A person arrested by virtue of subsection (1) must be held in custody and brought before the appropriate magistrates’ court –
- (a) before the end of the period of 24 hours beginning with the time of the arrest, or 30
- (b) if earlier, at the hearing of the application for a domestic abuse protection order against the person (see section 25(3)).
- (3) In subsection (2) “the appropriate magistrates’ court” means the magistrates’ court which is to hear the application mentioned in subsection (2)(b).
- (4) In calculating when the period of 24 hours mentioned in subsection (2)(a) ends, the following days are to be disregarded – 35
- (a) any Sunday,
- (b) Christmas Day,
- (c) Good Friday, and
- (d) any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. 40
- (5) If the person is brought before the court as mentioned in subsection (2)(a), the court may remand the person. 45
- (For power to remand a person brought before the court as mentioned in subsection (2)(b), see section 26(8).)

- (6) In the application of section 128(6) of the Magistrates’ Courts Act 1980 to remand under subsection (5) above, the reference to the “other party” is to be read as a reference to the senior police officer who gave the notice.
- (7) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with any requirements that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice. 5
- (8) Sections 57A(2) and 57C of the Crime and Disorder Act 1998 (use of live link at preliminary hearings where accused is at police station) apply in relation to hearings arising by virtue of subsection (2)(a) as they apply in relation to preliminary hearings in a magistrates’ court (within the meaning of section 57A(3) of that Act), but as if – 10
 - (a) any reference in section 57C of that Act to being in police detention in connection with an offence were a reference to being held in custody under subsection (2) above, and 15
 - (b) subsections (4), (10) and (11) of that section were omitted.
- (9) In section 17(1) of the Police and Criminal Evidence Act 1984 (entry for purpose of arrest etc), after paragraph (c) insert – 20
 - “(cza) of arresting a person who the constable has reasonable grounds for believing is in breach of a domestic abuse protection notice given under section 19 of the Domestic Abuse Act 2019;”.

Domestic abuse protection orders

24 Meaning of “domestic abuse protection order”

- (1) In this Chapter a “domestic abuse protection order” is an order which, for the purpose of preventing a person (“P”) from being abusive towards a person aged 16 or over to whom P is personally connected – 25
 - (a) prohibits P from doing things described in the order, or
 - (b) requires P to do things described in the order.
- (2) A domestic abuse protection order may be made – 30
 - (a) on application (see section 25), or
 - (b) in the course of certain proceedings (see section 28).
- (3) Section 29 sets out the conditions for making a domestic abuse protection order.

25 Domestic abuse protection orders on application

- (1) A court may make a domestic abuse protection order under this section against a person (“P”) on an application made to it in accordance with this section. 35
- (2) An application for an order under this section may be made by – 40
 - (a) the person for whose protection the order is sought;
 - (b) the appropriate chief officer of police (see subsection (4));
 - (c) a person specified in regulations made by the Secretary of State;
 - (d) any other person with the leave of the court to which the application is to be made.

- (3) Where P is given a domestic abuse protection notice by a member of a relevant police force under section 19, the chief officer of police in relation to that force must apply for a domestic abuse protection order against P.
 (For further provision about such applications, see section 26.)
- (4) The appropriate chief officer of police is – 5
- (a) in a case where subsection (3) applies, the chief officer of police referred to in that subsection;
- (b) in any other case, any of the following – 10
- (i) the chief officer of police of the force maintained for any police area in which P resides;
- (ii) 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;
- (iii) the Chief Constable of the British Transport Police Force;
- (iv) the Chief Constable of the Ministry of Defence Police. 15
- (5) An application for an order under this section must be made to the family court, except where subsection (6) or (7) applies.
- (6) An application made by a chief officer of police for an order under this section must be made by complaint to a magistrates’ court.
- (7) In a case where – 20
- (a) P, and the person for whose protection the order is sought, are parties to any family or civil proceedings, and
- (b) the court would have power to make a domestic abuse protection order under section 28 in those proceedings without an application being made, 25
- an application for an order under this section may be made in those proceedings by the person for whose protection the order is sought.
- (8) Where an application is made to a magistrates’ court in accordance with this section –
- (a) the magistrates’ court may adjourn the hearing of the application; 30
- (b) on the hearing of the application, section 97 of the Magistrates’ Courts Act 1980 (summons to witness and warrant for arrest) does not apply in relation to the person for whose protection the order is sought, except where the person has given oral or written evidence at the hearing. 35

26 Applications where domestic abuse protection notice has been given

- (1) This section applies where, as a result of a person (“P”) being given a domestic abuse protection notice under section 19, a chief officer of police is required by section 25(3) to apply for a domestic abuse protection order against P.
- (2) The application must be heard by the magistrates’ court not later than 48 hours after the notice was given to P. 40
- (3) In calculating when the period of 48 hours mentioned in subsection (2) ends, the following days are to be disregarded –
- (a) any Sunday,
- (b) Christmas Day, 45
- (c) Good Friday, and

- (d) any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.
- (4) P must be given a notice of the hearing of the application.
- (5) The notice under subsection (4) is to be treated as having been given if it has been left at the address given by P under section 22(4). 5
- (6) But if the notice has not been given because P did not give an address under section 22(4), the court may hear the application if satisfied that the chief officer of police has made reasonable efforts to give P the notice.
- (7) If the court adjourns the hearing of the application, the notice continues in effect until the application has been determined or withdrawn. 10
- (8) If—
 - (a) P is brought before the court at the hearing of the application as a result of P’s arrest by virtue of section 23(1) (arrest for breach of domestic abuse protection notice), and
 - (b) the court adjourns the hearing, 15
the court may remand P.

27 Remand under section 26(8) of person arrested for breach of notice

- (1) This section applies where—
 - (a) as a result of a person being given a domestic abuse protection notice under section 19, a chief officer of police has applied for a domestic abuse protection order against the person, and 20
 - (b) the magistrates’ court remands the person under section 26(8).
- (2) In the application of section 128(6) of the Magistrates’ Courts Act 1980 to such remand, the reference to the “other party” is to be read as a reference to the chief officer of police who applied for the order. 25
- (3) If the court has reason to suspect that a medical report will be required, the power to remand the person may be exercised for the purpose of enabling a medical examination to take place and a report to be made.
- (4) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time. 30
- (5) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.
- (6) If the court has reason to suspect that the person is suffering from mental disorder within the meaning of the Mental Health Act 1983, the court has the same power to make an order under section 35 of that Act (remand to hospital for report on accused’s mental condition) as it has under that section in the case of an accused person (within the meaning of that section). 35
- (7) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with any requirements that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice. 40

28 Domestic abuse protection orders otherwise than on application

- (1) A court may make a domestic abuse protection order under this section in any of the cases set out below.

Family proceedings

- (2) The High Court or the family court may make a domestic abuse protection order against a person (“P”) in any family proceedings to which both P and the person for whose protection the order would be made are parties. 5

Criminal proceedings

- (3) Where a person (“P”) has been convicted of an offence, the court dealing with P for that offence may (as well as sentencing P or dealing with P in any other way) make a domestic abuse protection order against P. 10

- (4) But subsection (3) does not apply where the Court of Appeal is dealing with a person for an offence.

- (5) A court by or before which a person is acquitted of an offence may make a domestic abuse protection order against the person. 15

- (6) Where the Crown Court allows a person’s appeal against a conviction for an offence, the Crown Court may make a domestic abuse protection order against the person.

Civil proceedings

- (7) The county court may make a domestic abuse protection order against a person (“P”) in any relevant proceedings to which both P and the person for whose protection the order would be made are parties. 20

- (8) In subsection (7) “relevant proceedings” means proceedings of a description specified in regulations made by the Secretary of State.

29 Conditions for making an order 25

- (1) The court may make a domestic abuse protection order under section 25 or 28 against a person (“P”) if conditions A and B are met.

- (2) Condition A is that the court is satisfied on the balance of probabilities that P has been abusive towards a person aged 16 or over to whom P is personally connected. 30

- (3) Condition B is that the order is necessary and proportionate to protect that person from domestic abuse, or the risk of domestic abuse, carried out by P.

- (4) It does not matter –

- (a) whether the abusive behaviour referred to in subsection (2) took place in England and Wales or elsewhere, or 35
- (b) whether it took place before or after the coming into force of this section.

- (5) A domestic abuse protection order may not be made against a person who is under the age of 18.

30 Matters to be considered before making an order

- (1) Before making a domestic abuse protection order against a person (“P”), the court must, among other things, consider the following –
- (a) the welfare of any person under the age of 18 whose interests the court considers relevant to the making of the order (whether or not that person and P are personally connected); 5
 - (b) any opinion of the person for whose protection the order would be made –
 - (i) which relates to the making of the order, and
 - (ii) of which the court is made aware; 10
 - (c) in a case where the order includes provision relating to premises lived in by the person for whose protection the order would be made, any opinion of a relevant occupant –
 - (i) which relates to the making of the order, and
 - (ii) of which the court is made aware. 15
- (2) In subsection (1)(c) “relevant occupant” means a person other than P or the person for whose protection the order would be made –
- (a) who lives in the premises, and
 - (b) who is personally connected to –
 - (i) the person for whose protection the order would be made, or 20
 - (ii) if P also lives in the premises, P.
- (3) It is not necessary for the person for whose protection a domestic abuse protection order is made to consent to the making of the order.

31 Making of orders without notice

- (1) A court may, in any case where it is just and convenient to do so, make a domestic abuse protection order against a person (“P”) even though P has not been given such notice of the proceedings as would otherwise be required by rules of court. 25
- (2) Subsection (1) does not apply in relation to the making of an order under section 25 on an application made in accordance with subsection (3) of that section (see instead section 26(4) to (6)). 30
- (3) In deciding whether to exercise its powers under subsection (1), the court must have regard to all the circumstances, including –
- (a) any risk that, if the order is not made immediately, P will cause significant harm to the person for whose protection the order would be made, 35
 - (b) in a case where an application for the order has been made, whether it is likely that the person making the application will be deterred or prevented from pursuing the application if an order is not made immediately, and 40
 - (c) whether there is reason to believe that –
 - (i) P is aware of the proceedings but is deliberately evading service, and
 - (ii) the delay involved in effecting substituted service will cause serious prejudice to the person for whose protection the order would be made. 45

- (4) If a court makes an order against a person by virtue of subsection (1), it must give the person an opportunity to make representations about the order –
- (a) as soon as just and convenient, and
 - (b) at a hearing of which notice has been given to all the parties in accordance with rules of court.

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32 Provision that may be made by orders

- (1) A court may by a domestic abuse protection order impose any requirements that the court considers necessary to protect the person for whose protection the order is made from domestic abuse or the risk of domestic abuse.
 “Requirement” includes any prohibition or restriction.
- (2) The court must, in particular, consider what requirements (if any) may be necessary to protect the person for whose protection the order is made from different kinds of abusive behaviour.
- (3) Subsections (4) to (6) contain examples of the type of provision that may be made under subsection (1), but they do not limit the type of provision that may be so made.
- (4) A domestic abuse protection order may provide that the person against whom a domestic abuse protection order is made (“P”) –
- (a) may not contact the person for whose protection it is made;
 - (b) may not come within a specified distance of any premises in England or Wales in which that person lives.
- “Specified” means specified in the order.
- (5) If P lives in premises in England or Wales in which the person for whose protection the order is made also lives, the order may contain provision –
- (a) prohibiting P from evicting or excluding that person from the premises;
 - (b) prohibiting P from entering the premises;
 - (c) requiring P to leave the premises.
- (6) A domestic abuse protection order may require P to submit to electronic monitoring in England and Wales of P’s compliance with other requirements imposed by the order.
 In this Chapter a requirement imposed by virtue of this subsection is referred to as an “electronic monitoring requirement”.
- (7) Sections 33 and 34 contain further provision about the requirements that may be imposed by a domestic abuse protection order.

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33 Further provision about requirements that may be imposed by orders

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- (1) Requirements imposed on a person by a domestic abuse protection order must, so far as practicable, be such as to avoid –
- (a) conflict with the person’s religious beliefs;
 - (b) interference with any times at which the person normally works or attends an educational establishment;
 - (c) conflict with the requirements of any other court order or injunction to which the person may be subject.

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- (2) A domestic abuse protection order that imposes a requirement to do something on a person (“P”) must specify the person who is to be responsible for supervising compliance with that requirement.
- (3) Before including such a requirement in a domestic abuse protection order, the court must receive evidence about its suitability and enforceability from the person to be specified under subsection (2). 5
- (4) Subsections (2) and (3) do not apply in relation to electronic monitoring requirements (see instead section 34(3) to (6)).
- (5) It is the duty of a person specified under subsection (2) – 10
- (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
 - (b) to promote P’s compliance with the relevant requirements;
 - (c) if the person considers that – 15
 - (i) P has complied with all the relevant requirements, or
 - (ii) P has failed to comply with a relevant requirement, to inform the appropriate chief officer of police.
- (6) In subsection (5)(c) the “appropriate chief officer of police” means – 20
- (a) the chief officer of police of the force maintained for the police area in which it appears to the person specified under subsection (2) that P resides,
 - (b) if it appears to that person that P resides in more than one police area, whichever one of the relevant chief officers of police the person thinks it most appropriate to inform, or
 - (c) if it appears to the person specified under subsection (2) that P does not reside in any police area, the chief officer of police of the force maintained for the police area in which the court that made the order is situated. 25
- (7) A person (“P”) who is subject to a requirement imposed by a domestic abuse protection order – 30
- (a) must keep in touch with the person specified under subsection (2) in relation to that requirement, in accordance with any instructions given by that person from time to time;
 - (b) if P changes home address, must notify the person specified under subsection (2) of the new home address; 35
 - (c) if P ceases to have any home address, must notify the person specified under subsection (2) of that fact.

These obligations have effect as requirements of the order.

34 Further provision about electronic monitoring requirements

- (1) Subsections (2) to (4) apply for the purpose of determining whether a court may impose an electronic monitoring requirement on a person (“P”) in a domestic abuse protection order. 40
- (2) The requirement may not be imposed in P’s absence.
- (3) If there is a person (other than P) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent. 45

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- (4) The court may impose the requirement only if –
- (a) it has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant area, and
 - (b) it is satisfied that the necessary provision can be made under the arrangements currently available. 5
- (5) In subsection (4)(a) “the relevant area” means –
- (a) the local justice area in which it appears to the court that P resides or will reside, and
 - (b) in a case where it is proposed to include in the order –
 - (i) a requirement that P must remain, for specified periods, at a specified place, or 10
 - (ii) a provision prohibiting P from entering a specified place or area,
 the local justice area in which the place or area proposed to be specified is situated. 15
- “Specified” means specified in the order.
- (6) A domestic abuse protection order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (7) The person specified under subsection (6) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State. 20
- (8) Where a domestic abuse protection order imposes an electronic monitoring requirement on a person, the person must (among other things) –
- (a) submit, as required from time to time by the responsible person, to –
 - (i) being fitted with, or the installation of, any necessary apparatus, and 25
 - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring,
 - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring, and 30
 - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purposes of the monitoring.
- These obligations have effect as requirements of the order.
- 35 Duration and geographical application of orders 35**
- (1) A domestic abuse protection order takes effect on the day on which it is made. This is subject to subsection (2).
- (2) If, on the day on which a domestic abuse protection order (“the new order”) is made against a person, the person is subject to another domestic abuse protection order (“the previous order”), the new order may be made so as to take effect on the previous order ceasing to have effect. 40
- (3) A domestic abuse protection order has effect –
- (a) for a specified period,
 - (b) until the occurrence of a specified event, or
 - (c) until further order. 45
- “Specified” means specified in the order.

- (4) A domestic abuse protection order may also specify periods for which particular requirements imposed by the order have effect.
- (5) But a domestic abuse protection order may not provide for an electronic monitoring requirement to have effect for more than 12 months.
- (6) Subsection (5) is subject to any variation of the order under section 41. 5
- (7) A requirement imposed by a domestic abuse protection order has effect in all parts of the United Kingdom unless expressly limited to a particular locality.

36 Breach of order

- (1) A person who is subject to a domestic abuse protection order commits an offence if without reasonable excuse the person fails to comply with any requirement imposed by the order. 10
- (2) In a case where the order was made against the person without that person being given notice of the proceedings, the person commits an offence under this section only in respect of behaviour engaged in at a time when the person was aware of the existence of the order. 15
(See also section 42(9) and (10), which makes similar provision where an order has been varied.)
- (3) Where a person is convicted of an offence under this section in respect of any behaviour, that behaviour is not punishable as a contempt of court.
- (4) A person may not be convicted of an offence under this section in respect of any behaviour which has been punished as a contempt of court. 20
- (5) A person guilty of an offence under this section is liable –
 - (a) on summary conviction –
 - (i) to imprisonment for a term not exceeding 12 months (or 6 months, if the offence was committed before the coming into force of section 154(1) of the Criminal Justice Act 2003), or 25
 - (ii) to a fine,or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or both. 30
- (6) If a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.
- (7) In subsection (6) “order for conditional discharge” means an order under any of the following provisions discharging the offender conditionally – 35
 - (a) section 12 of the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) section 185 of the Armed Forces Act 2006.
- (8) In proceedings for an offence under this section, a copy of the original domestic abuse protection order, certified by the proper officer of the court that made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those matters is admissible in those proceedings. 40

37 Arrest for breach of order

- (1) This section applies where a relevant court has made a domestic abuse protection order against a person (“P”).
- (2) In this section “relevant court” means –
- (a) the High Court, 5
 - (b) the family court, or
 - (c) the county court.
- (3) A person mentioned in subsection (4) may apply to the relevant judge for the issue of a warrant for P’s arrest if the person considers that P has failed to comply with the order or is otherwise in contempt of court in relation to the order. 10
- (4) The persons referred to in subsection (3) are –
- (a) the person for whose protection the order was made;
 - (b) where the order was made under section 25, the person who applied for the order (if different); 15
 - (c) any other person with the leave of the relevant judge.
- (5) The relevant judge may issue a warrant on an application under subsection (3) only if –
- (a) the application is substantiated on oath, and
 - (b) the relevant judge has reasonable grounds for believing that P has failed to comply with the order or is otherwise in contempt of court in relation to the order. 20
- (6) If –
- (a) P is brought before a relevant court as a result of a warrant issued under this section, and
 - (b) the court does not immediately dispose of the matter, 25
- the court may remand P.
- (7) Schedule 1 contains further provision about remand under this section.
- (8) In this section “the relevant judge” means –
- (a) where the order was made by the High Court, a judge of that court;
 - (b) where the order was made by the family court, a judge of that court;
 - (c) where the order was made by the county court, a judge of that court. 30
- (9) For the power of a constable to arrest P without warrant for breach of a domestic abuse protection order, see section 24 of the Police and Criminal Evidence Act 1984. 35

38 Notification requirements

- (1) Subsections (2) to (6) apply where a person is subject to a domestic abuse protection order.
- (2) The person must, within the period of three days beginning with the day on which the order is made, notify the police of the information in subsection (3). 40
- (3) The information referred to in subsection (2) is –
- (a) the person’s name and, if the person uses one or more other names, each of those names;

- (b) the person’s home address.
- (4) If the person uses a name which has not been notified under this section, the person must, within the period of three days beginning with the day on which the person first uses that name, notify the police of that name.
- (5) If the person changes home address, the person must, before the end of the period of three days beginning with the day on which that happens, notify the police of the new home address. 5
- (6) If the person ceases to have any home address, the person must, before the end of the period of three days beginning with the day on which that happens, notify the police of that fact. 10
- (7) The Secretary of State may by regulations specify further notification requirements which a court may impose when making or varying a domestic abuse protection order.
In this subsection a “notification requirement” is a requirement for the person against whom the order is made to provide specified information to the police. 15
- (8) The requirements imposed by subsections (2) to (6) do not apply where –
 - (a) the person is subject to another domestic abuse protection order (and accordingly those requirements already apply), or
 - (b) the person is subject to notification requirements under Part 2 of the Sexual Offences Act 2003 or section 9 of the Stalking Protection Act 2019. 20
- (9) If on any day the person ceases to be subject to any notification requirements as mentioned in subsection (8)(a) or (b), the requirements imposed by subsections (2) to (6) apply to the person on and after that day, but as if the reference in subsection (2) to the day on which the order was made were a reference to that day. 25
- (10) For provision about how to give a notification under subsection (2), (4), (5) or (6), see section 39.

39 Further provision about notification under section 38

- (1) A person gives a notification under section 38(2), (4), (5) or (6) by – 30
 - (a) attending at a police station in the appropriate police area, and
 - (b) giving an oral notification to –
 - (i) a police officer, or
 - (ii) any person authorised for the purpose by the officer in charge of the station. 35
- (2) In subsection (1) “the appropriate police area”, in relation to a person, means –
 - (a) if the person’s home address is in England and Wales, the police area in which that home address is situated;
 - (b) if the person does not have a home address in England and Wales, the police area in which the court that last made a domestic abuse protection order against the person is situated. 40
- (3) In a case of a person giving a notification under section 38(5), any reference in subsection (2) to the person’s home address is a reference to the person’s home address at the time of giving the notification.
- (4) A notification given in accordance with this section must be acknowledged – 45

-
- (a) in writing, and
 - (b) in the form directed by the Secretary of State.
- (5) When a person (“P”) gives a notification under section 38, P must, if requested to do so by the person to whom notification is given, allow that person to do any of the following things – 5
- (a) take P’s fingerprints;
 - (b) photograph, or otherwise produce an image of, P or any part of P.
- (6) The power in subsection (5) is exercisable for the purpose of verifying P’s identity.
- 40 Offences relating to notification** 10
- (1) A person (“P”) commits an offence if P –
- (a) fails, without reasonable excuse, to comply with a requirement imposed by or under section 38, or
 - (b) notifies the police, in purported compliance with such a requirement, of any information which P knows to be false. 15
- (2) A person who fails, without reasonable excuse, to comply with section 39(5) commits an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable –
- (a) on summary conviction –
 - (i) to imprisonment for a period not exceeding 12 months (or 6 months, if the offence was committed before the coming into force of section 154(1) of the Criminal Justice Act 2003), or 20
 - (ii) to a fine,
 or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or both. 25
- (4) A person commits an offence under subsection (1)(a) on the day on which the person first fails, without reasonable excuse, to comply with a requirement imposed by or under section 38.
- (5) The person continues to commit the offence throughout any period during which the failure continues. 30
- (6) But the person may not be prosecuted more than once in respect of the same failure.
- 41 Variation and discharge of orders**
- (1) A court may vary or discharge a domestic abuse protection order made by that or any other court. 35
 This is subject to section 42.
- (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 40
 - (b) in any case in which it could make a domestic abuse protection order under section 28.
- (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 25, 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; 5
 - (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 – 10
 - (a) any relevant chief officer of police who wishes to be heard, and
 - (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. 15
- (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; 20
 - (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 30 (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. 25
- (7) Section 31 (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 – 30
 - (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. 35
- (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. 40
- (10) The court may not extend the period for which an electronic monitoring requirement has effect by more than 12 months at a time. 45
- (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 the order was made from domestic abuse, or the risk of domestic abuse, carried out by P.
- 42 Variation and discharge: supplementary**
- (1) Any application to vary or discharge a domestic abuse protection order under section 41 must be made to the court that made the order.
This is subject to subsections (2) to (4).
- (2) Where the order was made by a magistrates' court, an application to vary or discharge the order may be made to any other magistrates' court acting in the local justice area in which that court acts.
- (3) Where the order was made by a youth court under section 28, any application to vary or discharge the order must be made to a magistrates' court acting in the local justice area in which the youth court acts.
- (4) Where –
- (a) the order was made under section 28 on an appeal in relation to a person's conviction or sentence for an offence, or
 - (b) the order was made by a court under that section against a person committed or remitted to that court for sentencing for an offence,
- any application to vary or discharge the order must be made to the court by or before which the person was convicted (but see subsection (5)).
- (5) Where the person mentioned in subsection (4)(b) was convicted by a youth court, the reference in subsection (4) to the court by or before which the person was convicted is to be read as a reference to a magistrates' court acting in the local justice area in which the youth court acts.
- (6) Except as provided for by subsection (4), a domestic abuse protection order made by the Crown Court may be varied or discharged under section 41 only by the Crown Court.
- (7) A domestic abuse protection order made by the High Court may be varied or discharged under section 41 only by the High Court.
- (8) An order that has been varied under section 41 remains an order of the court that first made it for the purposes of any further application under that section.
- (9) Subsection (10) applies in a case where –
- (a) an order made against a person is varied under section 41 so as to include an additional requirement, or to extend the period for which the order, or a requirement imposed by the order, has effect, and
 - (b) the person was not given notice of the proceedings.
- (10) The person commits an offence under section 36 only if –

- (a) the behaviour constituting the offence was engaged in at a time when the person was aware of the making of the variation, and
- (b) the behaviour would not have constituted an offence under that section in the absence of the variation.

43 Appeals

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- (1) A person listed in subsection (2) may appeal against any decision of a court on an application for a domestic abuse protection order under section 25 (to the extent that it would not otherwise be so appealable).
- (2) The persons referred to in subsection (1) are –
 - (a) the person for whose protection the order was sought, 10
 - (b) the person who applied for the order (if different), and
 - (c) where the court made a domestic abuse protection order under section 25, the person against whom it was made.
- (3) A person against whom a domestic abuse protection order is made under subsection (3), (5) or (6) of section 28 may appeal against the making of the order (to the extent it would not otherwise be so appealable) as if it were a sentence passed on the person for the offence referred to in that subsection (assuming, in a case within section 28(5) or (6), that the person had been convicted of the offence). 15
- (4) A person against whom a domestic abuse protection order is made may appeal against a variation of the order under section 41 that is made in a case within subsection (3), (5) or (6) of section 28 (to the extent it would not otherwise be so appealable) as if the varied order were a sentence passed on the person for the offence referred to in that subsection (assuming, in a case within section 28(5) or (6), that the person had been convicted of the offence). 20
- (5) A person listed in subsection (6) may appeal against any decision of a court under section 41 in relation to a domestic abuse protection order (to the extent it would not otherwise be so appealable, whether under subsection (4) or otherwise). 25
- (6) The persons referred to in subsection (5) are – 30
 - (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 25, 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; 35
 - (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.
- (7) An appeal arising by virtue of subsection (1) or (5) – 40
 - (a) in the case of a decision made by a magistrates’ court, is to be made to the Crown Court;
 - (b) in the case of a decision made by the Crown Court, is to be made to the Court of Appeal.

For the powers of the Crown Court or Court of Appeal on such an appeal, see section 44(4). 45

- (8) If, in the case of an appeal arising by virtue of subsection (1) or (5) in respect of a decision made by the High Court, the family court or the county court, the person making the appeal was not a party to the proceedings in that court, the person is to be treated for the purposes of that appeal as if the person had been a party to those proceedings. 5
- (9) For further provision about appeals, see (in particular) –
- (a) section 31K of the Matrimonial and Family Proceedings Act 1984 (appeals from the family court),
 - (b) section 16(1) of the Senior Courts Act 1981 (appeals from the High Court), 10
 - (c) section 77 of the County Courts Act 1984 (appeals from the county court),
 - (d) section 108(3) of the Magistrates’ Courts Act 1980 (appeals against orders made on conviction in a magistrates’ court),
 - (e) section 50(1) of the Criminal Appeal Act 1968 (appeals against orders made on conviction in the Crown Court), and 15
 - (f) rules of court.

44 Further provision about appeals

- (1) Before determining any appeal relating to a domestic abuse protection order (whether or not an appeal under section 43), the court must hear from any relevant chief officer of police who wishes to be heard. 20
- (2) For the purposes of subsection (1) 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; 25
 - (b) the chief officer of police of the force maintained for any police area in which the person (“P”) against whom the order was made, or (in the case of an appeal against the decision of a court not to make an order under section 25) against whom it was sought, 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. 30
- (3) Subsection (4) applies to –
- (a) an appeal made to the Crown Court by virtue of section 43(7)(a);
 - (b) an appeal made to the Court of Appeal by virtue of section 43(7)(b).
- (4) On an appeal to which this subsection applies, the court may, on a review of the decision appealed against – 35
- (a) confirm, vary or revoke any part of the decision;
 - (b) refer the matter back to the court that made the decision with a direction to reconsider and make a new decision in accordance with its ruling; 40
 - (c) make any order which the court that made the decision appealed against could have made;
 - (d) make any incidental or consequential orders that appear to it to be just.
- (5) For the purposes of section 42 (variation and discharge: supplementary) – 45
- (a) a domestic abuse protection order that has been confirmed or varied on an appeal (whether under subsection (4)(a) or otherwise) remains an order of the court that first made it, and

- (b) a domestic abuse protection order made by a court on an appeal (whether under subsection (4)(c) or otherwise) is to be treated as an order made by the court whose decision was appealed against.

45 Nature of certain proceedings under this Chapter

- (1) Proceedings before a court arising by virtue of section 28(3), (5) or (6), and proceedings before a court arising by virtue of section 41(2)(b) in any case within section 28(3), (5) or (6), are civil proceedings (like proceedings before a magistrates' court under section 25 or 41(2)(a)). 5
- (2) The court is not restricted in the proceedings to considering evidence that would have been admissible in the criminal proceedings in which the person concerned was convicted or (as the case may be) acquitted. 10
- (3) The court may adjourn any proceedings arising by virtue of section 28(3), (5) or (6), or any proceedings arising by virtue of section 41(2)(b) in any case within section 28(3), (5) or (6), even after sentencing or acquitting the person concerned or allowing the person's appeal. 15
- (4) A domestic abuse protection order may be made or varied in addition to an order discharging the person conditionally in spite of anything in sections 12 and 14 of the Powers of Criminal Courts (Sentencing) Act 2000 (which relate to orders discharging a person conditionally or absolutely and their effect).

46 Special measures for witnesses 20

- (1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in case of vulnerable and intimidated witnesses) applies to relevant proceedings under this Chapter as it applies to criminal proceedings, but with—
 - (a) the omission of the provisions of that Act mentioned in subsection (2) (which make provision only in the context of criminal proceedings), and 25
 - (b) any other necessary modifications.
- (2) The provisions are—
 - (a) section 17(4) to (7); 30
 - (b) section 21(4C)(e);
 - (c) section 22A;
 - (d) section 32.
- (3) Rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act apply to relevant proceedings under this Chapter—
 - (a) to the extent provided by rules of court, and 35
 - (b) subject to any modifications provided by rules of court.
- (4) Section 47 of that Act (restrictions on reporting special measures directions etc) applies with any necessary modifications—
 - (a) to a direction under section 19 of that Act as applied by this section; 40
 - (b) to a direction discharging or varying such a direction.Sections 49 and 51 of that Act (offences) apply accordingly.
- (5) In this section “relevant proceedings under this Chapter” means—
 - (a) proceedings under section 25, 28(2) or (7), 37 or 41(2)(a);

- (b) proceedings arising by virtue of section 28(3), (5) or (6);
- (c) proceedings arising by virtue of section 41(2)(b) in any case within section 28(3), (5) or (6);
- (d) proceedings on an appeal relating to a domestic abuse protection order (whether or not an appeal under section 43). 5

Notices and orders: supplementary

47 Guidance

- (1) The Secretary of State must issue guidance relating to the exercise by relevant persons of functions under or by virtue of this Chapter.
- (2) In this section “relevant person” means— 10
 - (a) a constable;
 - (b) a person specified in regulations under subsection (2)(c) of section 25 for the purpose of making applications for orders under that section.
- (3) A relevant person must have regard to any guidance issued under this section when exercising a function to which the guidance relates. 15
- (4) The Secretary of State may from time to time revise any guidance issued under this section.
- (5) Before issuing or revising guidance under this section, the Secretary of State must consult— 20
 - (a) the Domestic Abuse Commissioner, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (6) Subsection (5) does not apply in relation to any revisions of guidance issued under this section if the Secretary of State considers the proposed revisions of the guidance are insubstantial.
- (7) The Secretary of State must publish— 25
 - (a) any guidance issued under this section, and
 - (b) any revisions of that guidance.

48 Data from electronic monitoring: code of practice

- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of individuals under electronic monitoring requirements imposed by domestic abuse protection orders. 30
- (2) A failure to act in accordance with a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.

49 Powers to make other orders in proceedings under this Chapter 35

- (1) In section 8 of the Children Act 1989 (child arrangements orders and other orders with respect to children), in subsection (4), at the end insert— 40
 - “(k) Chapter 3 of Part 1 of the Domestic Abuse Act 2019, where the proceedings are in the family court or the Family Division of the High Court.”

- (2) In Part 4 of the Family Law Act 1996 (family homes and domestic violence), in section 63(2) (definition of “family proceedings”), after paragraph (j) insert –
- “(k) Chapter 3 of Part 1 of the Domestic Abuse Act 2019, where the proceedings are in the family court or the Family Division of the High Court.”

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50 Proceedings not to be subject to conditional fee agreements

In section 58A of the Courts and Legal Services Act 1990 (conditional fee agreements: supplementary), in subsection (2), after paragraph (fd) (but before the “and” following it) insert –

- “(fe) proceedings under Chapter 3 of Part 1 of the Domestic Abuse Act 2019 (proceedings for domestic abuse protection order), where the proceedings are in the family court or the Family Division of the High Court;”.

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51 Repeal of provisions about domestic violence protection notices and orders

- (1) In the Crime and Security Act 2010, omit sections 24 to 33 (which make provision for domestic violence protection notices and domestic violence protection orders).
- (2) In consequence of the repeal made by subsection (1), omit the following provisions –
- (a) in Schedule 8 to the Crime and Courts Act 2013, paragraph 179;
- (b) in Schedule 14 to the Policing and Crime Act 2017, paragraph 7(g).

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52 Interpretation of Chapter 3

- (1) In this Chapter –
- “chief officer of police” means –
- (a) in relation to a police force maintained by a local policing body, the chief officer of police of that force;
- (b) in relation to the British Transport Police Force, the Chief Constable of the Force;
- (c) in relation to the Ministry of Defence Police, the Chief Constable of the Ministry of Defence Police;
- “domestic abuse protection notice” has the meaning given by section 19(2);
- “domestic abuse protection order” has the meaning given by section 24(1);
- “electronic monitoring requirement” has the meaning given by section 32(6);
- “family proceedings” means –
- (a) proceedings in the family court (other than proceedings under or by virtue of this Chapter), and
- (b) family proceedings within the meaning of Part 5 of the Matrimonial and Family Proceedings Act 1984;
- “home address”, in relation to a person, means –
- (a) the address of the person’s sole or main residence in the United Kingdom, or
- (b) if the person has no such residence –

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- (i) the address or location of a place in the United Kingdom where the person can regularly be found;
 - (ii) if there is more than one such place, the address or location of whichever one of those places the person selects; 5
- “relevant police force” has the meaning given by section 19(8);
“requirement”, in relation to a domestic abuse protection order, is to be read in accordance with section 32(1);
“senior police officer” has the meaning given by section 19(8).
- (2) Any reference to a member of a police force includes, in the case of a police force maintained by a local policing body, a reference to a special constable appointed by the chief officer of police of that force. 10
 - (3) Any reference to changing home address includes a reference to a case where—
 - (a) a person acquires a home address at any time, and 15
 - (b) immediately before that time, the person did not have a home address.
 - (4) See also—
 - (a) section 1 (definition of “domestic abuse”);
 - (b) section 2 (definition of “personally connected”).

CHAPTER 4

20

OTHER PROVISION ABOUT DOMESTIC ABUSE

Special measures

53 Special measures directions in cases involving domestic abuse

- (1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (giving of evidence or information for purposes of criminal proceedings: special measures directions in case of vulnerable and intimidated witnesses) is amended as follows. 25
- (2) In section 17 (witnesses eligible for assistance on grounds of fear or distress about testifying) —
 - (a) in subsection (4), for “a sexual offence or an offence under section 1 or 2 of the Modern Slavery Act 2015” substitute “an offence listed in subsection (4A)”; 30
 - (b) after subsection (4) insert —
 - “(4A) The offences are — 35
 - (a) a sexual offence;
 - (b) an offence under section 1 or 2 of the Modern Slavery Act 2015;
 - (c) any other offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning of Part 1 of the Domestic Abuse Act 2019 (see section 1 of that Act).” 40

- (3) In section 25(4)(a) (evidence given in private), for “a sexual offence or an offence under section 1 or 2 of the Modern Slavery Act 2015” substitute “an offence listed in section 17(4A)”.

Management of offenders

54 Polygraph conditions for offenders released on licence 5

- (1) In Part 3 of the Offender Management Act 2007 (other provisions about the management of offenders), section 28 (application of polygraph condition) is amended as follows.
- (2) After subsection (2) insert –
- “(2A) This section also applies to a person serving a relevant custodial sentence in respect of a relevant offence involving domestic abuse who –
- (a) is released on licence by the Secretary of State under any enactment; and
 - (b) is not aged under 18 on the day on which he is released.” 10
- (3) In subsection (3)(a), for “for a term of twelve months or more” substitute “that is not for a term of less than twelve months”.
- (4) After subsection (4) insert –
- “(4A) In this section “relevant offence involving domestic abuse” means –
- (a) an offence listed in subsection (4B) which involved behaviour by the offender amounting to domestic abuse within the meaning of Part 1 of the Domestic Abuse Act 2019 (see section 1 of that Act);
 - (b) an offence under section 36 of that Act (breach of domestic abuse protection order). 20
- (4B) The offences are –
- (a) murder;
 - (b) an offence under section 5 of the Protection from Harassment Act 1997 (breach of a restraining order);
 - (c) an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences);
 - (d) an offence under section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).” 30

Disclosure of information by police 35

55 Guidance about the disclosure of information by police forces

- (1) The Secretary of State must issue guidance to chief officers of police about the disclosure of police information by police forces for the purposes of preventing domestic abuse.
- “Police information” means information held by a police force. 40
- (2) Each chief officer of police of a police force must have regard to any guidance issued under this section.

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- (3) The Secretary of State may from time to time revise any guidance issued under this section.
- (4) Before issuing or revising guidance under this section, the Secretary of State must consult –
- (a) the Domestic Abuse Commissioner, 5
 - (b) the National Police Chiefs’ Council, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply in relation to any revisions of guidance issued under this section if the Secretary of State considers the proposed revisions of the guidance are insubstantial. 10
- (6) The Secretary of State must publish –
- (a) any guidance issued under this section, and
 - (b) any revisions of that guidance.
- (7) In this section –
- “chief officer of police” means – 15
 - (a) in relation to the British Transport Police Force, the Chief Constable of that Force;
 - (b) in relation to any other police force, the chief officer of police of that force;
 - “police force” means – 20
 - (a) a police force maintained by a local policing body, or
 - (b) the British Transport Police Force.

Secure tenancies

56 Grant of secure tenancies in cases of domestic abuse

- (1) Part 4 of the Housing Act 1985 (secure tenancies and rights of secure tenants) is amended as follows. 25
- (2) After section 81 insert –
- “81ZA Grant of secure tenancies in cases of domestic abuse**
- (1) This section applies where a local housing authority grants a secure tenancy of a dwelling-house in England before the day on which paragraph 4 of Schedule 7 to the Housing and Planning Act 2016 (grant of new secure tenancies in England) comes fully into force. 30
- (2) The local housing authority must grant a secure tenancy that is not a flexible tenancy if –
- (a) the tenancy is offered to a person who is or was a tenant of some other dwelling-house under a qualifying tenancy (whether as the sole tenant or as a joint tenant), and 35
 - (b) the authority is satisfied that –
 - (i) the person or a member of the person’s household is or has been a victim of domestic abuse carried out by another person, and 40
 - (ii) the new tenancy is granted for reasons connected with that abuse.

- (3) The local housing authority must grant a secure tenancy that is not a flexible tenancy if—
- (a) the tenancy is offered to a person who was a joint tenant of the dwelling-house under a qualifying tenancy, and
 - (b) the authority is satisfied that—
 - (i) the person or a member of the person’s household is or has been a victim of domestic abuse carried out by another person, and
 - (ii) the new tenancy is granted for reasons connected with that abuse.
- (4) In this section—
- “abuse” means—
 - (a) physical or sexual abuse;
 - (b) violent or threatening behaviour;
 - (c) controlling or coercive behaviour;
 - (d) economic abuse (within the meaning of section 1(4) of the Domestic Abuse Act 2019);
 - (e) psychological, emotional or other abuse;
 - “domestic abuse” means abuse carried out by a person who is personally connected to the victim of the abuse (within the meaning of section 2 of the Domestic Abuse Act 2019);
 - “qualifying tenancy” means a tenancy of a dwelling-house in England which is—
 - (a) a secure tenancy other than a flexible tenancy, or
 - (b) an assured tenancy—
 - (i) which is not an assured shorthold tenancy, and
 - (ii) which is granted by a private registered provider of social housing, by the Regulator of Social Housing or by a housing trust which is a charity.
- (5) For the purposes of this section, a person may be a victim of domestic abuse despite the fact that the abuse is directed at another person (for example, the person’s child).”
- (3) In section 81B (cases where old-style English secure tenancies may be granted)—
- (a) in subsection (2C)—
 - (i) for the definition of “abuse” substitute—
 - ““abuse” means—
 - (a) physical or sexual abuse;
 - (b) violent or threatening behaviour;
 - (c) controlling or coercive behaviour;
 - (d) economic abuse (within the meaning of section 1(4) of the Domestic Abuse Act 2019);
 - (e) psychological, emotional or other abuse;”;
 - (ii) for the definition of “domestic abuse” substitute—
 - ““domestic abuse” means abuse carried out by a person who is personally connected to the victim

of the abuse (within the meaning of section 2 of the Domestic Abuse Act 2019);”;

(b) after subsection (2C) insert—

“(2D) For the purposes of this section, a person may be a victim of domestic abuse despite the fact that the abuse is directed at another person (for example, the person’s child).” 5

PART 2

DOMESTIC ABUSE: NORTHERN IRELAND

The domestic abuse offence

- 57 The domestic abuse offence** 10
- (1) A person (“A”) commits an offence if—
- (a) A engages in a course of behaviour that is abusive of another person (“B”) (see section 58),
 - (b) A and B are personally connected to each other at the time (see section 60), and 15
 - (c) the conditions in subsection (2) are met.
- (2) The conditions referred to in subsection (1)(c) are—
- (a) that a reasonable person would consider the course of behaviour to be likely to cause B to suffer physical or psychological harm, and
 - (b) that A— 20
 - (i) intends the course of behaviour to cause B to suffer physical or psychological harm, or
 - (ii) is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.
- (3) For the purposes of this Part— 25
- (a) a course of behaviour involves behaviour on at least two occasions;
 - (b) “psychological harm” includes fear, alarm and distress.
- (4) An offence under this section can be committed whether or not A’s behaviour actually causes B to suffer any physical or psychological harm. 30
 But this does not prevent evidence from being led in proceedings for an offence under this section about any harm actually suffered by B as a result of the behaviour.
- (5) The offence under this section is to be known as the domestic abuse offence.
- (6) See also—
- (a) section 61 (behaviour occurring outside the UK), 35
 - (b) section 62 (exception for persons having responsibility for children), and
 - (c) section 63 (defence on grounds of reasonableness).
- 58 What constitutes “abusive” behaviour**
- (1) This section contains provision for determining for the purposes of this Part 40
 when the behaviour of a person (“A”) is abusive of another person (“B”).

- (2) Behaviour that is abusive of B includes (among other things) –
 - (a) behaviour directed at B that is violent;
 - (b) behaviour directed at B that is threatening;
 - (c) behaviour directed at B, at a child of B or at another person that –
 - (i) has as its purpose (or among its purposes) one or more of the relevant effects set out in subsection (3), or 5
 - (ii) would be considered by a reasonable person to be likely to have one or more of those relevant effects.
- (3) The relevant effects are of –
 - (a) making B dependent on, or subordinate to, A; 10
 - (b) isolating B from friends, family members or other sources of social interaction or support;
 - (c) controlling, regulating or monitoring B’s day-to-day activities;
 - (d) depriving B of, or restricting B’s, freedom of action;
 - (e) making B feel frightened, humiliated, degraded, punished or intimidated. 15
- (4) In subsection (2) –
 - (a) the reference in paragraph (a) to violent behaviour includes both sexual violence and physical violence;
 - (b) in paragraph (c) “child” means a person under the age of 18. 20
- (5) Behaviour can be abusive of B as a result of subsection (2)(c) whether or not the behaviour actually has on B any of the relevant effects set out in subsection (3). But this does not prevent evidence from being led in proceedings for the domestic abuse offence about any effects which the behaviour actually had on B. 25
- (6) None of the paragraphs of subsection (2) or (as the case may be) subsection (3) is to be taken to limit the meaning of any other paragraph of that subsection.

59 Further provision about “behaviour”

- (1) This section has effect for the purposes of this Part.
- (2) “Behaviour” means behaviour of any kind, including (for example) – 30
 - (a) saying or otherwise communicating something as well as doing something;
 - (b) intentionally failing –
 - (i) to do something, or
 - (ii) to say or otherwise communicate something. 35
- (3) Behaviour is “directed at” a person if it is directed at the person in any way, including (for example) –
 - (a) by way of conduct relating to the person’s ability to acquire, use or maintain money or other property or to obtain goods or services,
 - (b) by way of other conduct towards property, or 40
 - (c) by making use of a third party,as well as in a personal or direct manner.

60 Definition of “personally connected”

- (1) For the purposes of this Part, two people (“A” and “B”) are “personally connected” to each other if any of the following applies –
- (a) they are, or have been, married to each other;
 - (b) they are, or have been, civil partners of each other; 5
 - (c) they are living together, or have lived together, as if married or in a civil partnership;
 - (d) they are, or have been, otherwise in an intimate personal relationship with each other;
 - (e) they are members of the same family (see subsections (2) and (3)). 10
- (2) A and B are members of the same family if B is A’s parent, grandparent, child, grandchild, brother or sister.
- (3) A and B are also members of the same family if –
- (a) one of them is in a relevant relationship with another person (“C”), and
 - (b) the other of them is C’s parent, grandparent, child, grandchild, brother or sister. 15
- (4) The reference in subsection (3)(a) to being in a relevant relationship is a reference to –
- (a) being married or in a civil partnership, or
 - (b) living together as if married or in a civil partnership. 20
- (5) For the purposes of subsections (2) and (3) –
- (a) a relationship of the half blood or by affinity is to be treated as a relationship of the whole blood, and
 - (b) the stepchild of a person is to be treated as that person’s child.

61 Behaviour occurring outside the UK 25

- (1) If –
- (a) a person’s course of behaviour consists of or includes behaviour occurring in a country outside the United Kingdom,
 - (b) the course of behaviour would constitute the domestic abuse offence if it occurred in Northern Ireland, and 30
 - (c) the person is a United Kingdom national or is habitually resident in Northern Ireland,
- the person commits the domestic abuse offence.
- (2) If the course of behaviour occurs wholly outside the United Kingdom –
- (a) proceedings for the offence may be taken in Northern Ireland, and 35
 - (b) the offence may for incidental purposes be treated as having been committed in Northern Ireland.
- (3) In this section –
- “country” includes territory;
 - “United Kingdom national” means an individual who is – 40
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act. 45

62 Exception for persons having responsibility for children

- (1) A person (“A”) does not commit the domestic abuse offence in relation to another person (“B”) by engaging in any behaviour that is abusive of B at a time when –
- (a) B is under the age of 18, and 5
 - (b) A has responsibility for B.
- (2) Section 36 of the Children and Young Persons Act (Northern Ireland) 1968 applies for the purposes of determining whether A has responsibility for B as it applies for the purposes of determining whether a person has responsibility for a child or young person within the meaning of that Act. 10

63 Defence on grounds of reasonableness

- (1) In proceedings in respect of a charge of the domestic abuse offence, it is a defence for a person to show that the course of behaviour was reasonable in the particular circumstances.
- (2) That is shown if – 15
- (a) evidence adduced is enough to raise an issue as to whether the course of behaviour was as described in subsection (1), and
 - (b) the prosecution does not prove beyond reasonable doubt that the course of behaviour was not as described in subsection (1).

64 Alternative available for conviction 20

- (1) In proceedings in respect of a charge against a person (“A”) of the domestic abuse offence, A may be convicted of an alternative offence if the facts proved against A –
- (a) do not amount to the domestic abuse offence, but
 - (b) do amount to the alternative offence. 25
- (2) For the purposes of subsection (1) the alternative offences are –
- (a) an offence under Article 4 of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9)) (harassment);
 - (b) an offence under Article 6 of that Order (putting people in fear of violence). 30

65 Penalty for the offence

- A person who commits the domestic abuse offence is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine, or both. 35

Aggravation of offence

66 Aggravation of offence where victim is under 18

- (1) A charge of the domestic abuse offence against a person (“A”) may include an allegation that the offence is aggravated by reason of the person in relation to 40

whom the offence is alleged to have been committed (“B”) having been under the age of 18 at the time of any of the behaviour constituting the offence.

- (2) Subsection (3) applies where –
- (a) A is charged as mentioned in subsection (1), and
 - (b) the charge is proved. 5
- (3) The court must –
- (a) state on conviction that the offence is aggravated by reason of B having been under the age of 18 as mentioned in subsection (1),
 - (b) record the conviction in a way that shows that the offence is so aggravated, 10
 - (c) in determining the appropriate sentence, treat the fact that the offence is so aggravated as a factor that increases the seriousness of the offence, and
 - (d) in imposing sentence, explain how the fact that the offence is so aggravated affects the sentence imposed. 15
- (4) If the charge –
- (a) is not proved as respects the allegation of aggravation, but
 - (b) is otherwise proved,
- A may be convicted of the charge under deletion of the allegation of aggravation. 20

67 Aggravation of offence where child is otherwise involved

- (1) A charge of the domestic abuse offence against a person (“A”) may include an allegation that the offence is aggravated by reason of involving a relevant child.
- (2) For the purposes of this section, “relevant child” means a person under the age of 18 who is not A or B. 25
In this section “B” is the person in relation to whom the offence is alleged to have been committed.
- (3) For the purposes of this section, the domestic abuse offence is aggravated by reason of involving a relevant child if –
- (a) at any time in the commission of the offence – 30
 - (i) A directed behaviour at the child, or
 - (ii) A made use of the child in directing behaviour at B, or
 - (b) the child saw or heard, or was present during, an incident of behaviour which A directed at B as part of the course of behaviour.
- (4) Subsection (5) applies where – 35
- (a) A is charged as mentioned in subsection (1), and
 - (b) the charge is proved.
- (5) The court must –
- (a) state on conviction that the offence is aggravated by reason of involving a relevant child, 40
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) in determining the appropriate sentence, treat the fact that the offence is so aggravated as a factor that increases the seriousness of the offence, and 45

- (d) in imposing sentence, explain how the fact that the offence is so aggravated affects the sentence imposed.
- (6) If the charge –
 - (a) is not proved as respects the allegation of aggravation, but
 - (b) is otherwise proved, 5A may be convicted of the charge under deletion of the allegation of aggravation.

Procedural matters

68 Relationship taken as established if not challenged

- (1) In proceedings in respect of a charge of the domestic abuse offence against a person (“A”), the prosecutor may serve notice on A, or A’s solicitor, proposing that the matter of A and B being personally connected, as required for the proof of the charge, be taken as established for the purposes of the proceedings. In this subsection “B” is the person in relation to whom the offence is alleged to have been committed. 10 15
- (2) A notice under subsection (1) must be served no later than the point in the proceedings when the prosecutor complies with section 3 of the Criminal Procedure and Investigations Act 1996 or purports to comply with it.
- (3) If a notice under subsection (1) is served in accordance with this section, the matter is to be taken as so established unless it is challenged as provided for in subsection (4). 20
- (4) The matter is challenged by –
 - (a) A or A’s solicitor serving on the Director of Public Prosecutions for Northern Ireland, not later than the seventh day after the day of the service of the prosecutor’s notice under subsection (1), a notice of objection stating the reason for objection, or 25
 - (b) such later objection as the court allows in special circumstances.
- (5) A notice for the purposes of this section must be in writing.

69 Service of notices under section 68

- (1) This section contains provision about the service of notices under section 68. 30
- (2) References in this section to a person’s proper address are to –
 - (a) where the person is the person charged, the person’s usual or last known address;
 - (b) where the person is –
 - (i) the solicitor of the person charged, or 35
 - (ii) the Director of Public Prosecutions for Northern Ireland, the address of the person’s office.
- (3) Notice is served on a person by –
 - (a) handing it to the person,
 - (b) leaving it at the person’s proper address, 40
 - (c) sending it by post to the person at the person’s proper address, or

- (d) where subsection (4) applies, sending it to the person by electronic means.
- (4) This subsection applies where—
- (a) the person on whom the notice is to be served has indicated that it may be served on the person by being sent to an electronic address and in an electronic form specified for that purpose, and 5
 - (b) the notice is sent to that address in that form.
- (5) In subsection (4)(a) “electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means. 10
- (6) A notice sent by electronic means is, unless the contrary is proved, to be treated as having been served at 9 a.m. on the working day immediately following the day on which it was sent.
- (7) In subsection (6) “working day” means a day other than a Sunday or a public holiday. 15
- (8) In its application to service under this section, section 24(1) of the Interpretation Act (Northern Ireland) 1954 applies as if the reference in it to the person’s usual or last known place of abode or business were a reference to the person’s proper address.
- 70 No right to claim trial by jury in summary proceedings 20**
- In Article 29(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (right to claim trial by jury for certain summary offences), after sub-paragraph (p) insert—
- “(q) section 57 of the Domestic Abuse Act 2019 (the domestic abuse offence).” 25
- 71 No cross-examination by accused in person**
- (1) The Criminal Evidence (Northern Ireland) Order 1999 (S.I. 1999/2789 (N.I. 8)) is amended as follows.
 - (2) After Article 22 insert—

“22A Complainants in proceedings for the domestic abuse offence 30

No person charged with the domestic abuse offence (see section 57 of the Domestic Abuse Act 2019) may in any criminal proceedings cross-examine in person a witness who is the complainant, either—

 - (a) in connection with that offence, or
 - (b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.” 35
 - (3) In Article 23 (child complainants and other child witnesses)—
 - (a) in paragraph (3), after sub-paragraph (cc) insert—

“(cd) the domestic abuse offence (see section 57 of the Domestic Abuse Act 2019);”;
 - (b) in paragraph (4)(a), for “or (cc)” substitute “; (cc) or (cd)”. 40
 - (4) In Article 24 (direction prohibiting accused from cross-examining particular witness)—

- (a) in paragraph (1), for “neither of Articles 22 and 23” substitute “none of Articles 22, 22A and 23”;
- (b) in paragraph (3)(e) –
 - (i) after “Article”, where it first occurs, insert “22A or”, and
 - (ii) after “22” insert “, 22A”. 5
- (5) In Article 26(1) (defence representation for purposes of cross-examination), after “22,” insert “22A,”.
- (6) In Article 27(1) (warning to jury), after “22,” insert “22A,”.

72 Special measures for witnesses

- (1) Part 2 of the Criminal Evidence (Northern Ireland) Order 1999 (S.I. 1999/2789 (N.I. 8)) (special measures directions in case of vulnerable and intimidated witnesses) is amended as follows. 10
- (2) In Article 5 (witnesses eligible for assistance on grounds of fear or distress about testifying) –
 - (a) in paragraph (4), for “a sexual offence or a slavery or human trafficking offence” substitute “an offence listed in paragraph (5)”;
 - (b) after paragraph (4) insert –
 - “(5) The offences are –
 - (a) a sexual offence;
 - (b) a slavery or human trafficking offence; 20
 - (c) the domestic abuse offence (see section 57 of the Domestic Abuse Act 2019).”
- (3) In Article 13(4)(a) (evidence given in private), for “a sexual offence or a slavery or human trafficking offence” substitute “an offence listed in Article 5(5)”.

Guidance and interpretation 25

73 Guidance about investigation of offences

- (1) The Department of Justice in Northern Ireland (“the Department”) may issue guidance about the investigation of the domestic abuse offence to whatever persons the Department considers appropriate.
- (2) The Department may revise any guidance issued under this section. 30
- (3) The Department must arrange for any guidance issued or revised under this section to be published.

74 Application of Interpretation Act (Northern Ireland) 1954

The Interpretation Act (Northern Ireland) 1954 applies for the purposes of this Part as it applies to an Act of the Northern Ireland Assembly. 35

PART 3

PROHIBITION ON CROSS-EXAMINATION IN PERSON IN FAMILY PROCEEDINGS

75 Prohibition of cross-examination in person in family proceedings

In the Matrimonial and Family Proceedings Act 1984, after Part 4A insert –

“PART 4B 5

FAMILY PROCEEDINGS: PROHIBITION OF CROSS-EXAMINATION IN PERSON

31Q Prohibition of cross-examination in person: introductory

In this Part –

“the court” means the family court or the High Court;

“family proceedings” means – 10

(a) proceedings in the family court, and

(b) proceedings in the Family Division of the High Court which are business assigned, by or under section 61 of (and Schedule 1 to) the Senior Courts Act 1981, to that Division of the High Court and no other; 15

“witness”, in relation to any proceedings, includes a party to the proceedings.

31R Prohibition of cross-examination in person: victims of offences

(1) In family proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence. 20

(2) In family proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of or given a caution for, or is charged with, that offence. 25

(3) Subsections (1) and (2) do not apply to a conviction or caution that is spent for the purposes of the Rehabilitation of Offenders Act 1974, unless evidence in relation to the conviction or caution is admissible in, or may be required in, the proceedings by virtue of section 7(2), (3) or (4) of that Act. 30

(4) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the conviction, caution or charge when the cross-examination took place. 35

(5) In this section –

“caution” means –

(a) a conditional caution given under section 22 of the Criminal Justice Act 2003;

(b) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998; 40

(c) any other caution given to a person in England and Wales or Northern Ireland in respect of an offence

- which, at the time the caution is given, that person has admitted;
- (d) anything corresponding to a caution falling within paragraph (a), (b) or (c) (however described) which is given to a person in respect of an offence under the law of Scotland; 5
- “conviction” means –
- (a) a conviction before a court in England and Wales, Scotland or Northern Ireland;
- (b) a conviction in service disciplinary proceedings (in England and Wales, Scotland, Northern Ireland, or elsewhere); 10
- (c) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that the person concerned has committed an offence or done the act or made the omission charged; 15
- and “convicted” is to be read accordingly;
- “service disciplinary proceedings” means –
- (a) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (except proceedings before a civilian court within the meaning of that Act); 20
- (b) any proceedings under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 (whether before a court-martial or before any other court or person authorised under any of those Acts to award a punishment in respect of an offence); 25
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976;
- “specified offence” means an offence which is specified, or of a description specified, in regulations made by the Lord Chancellor. 30
- (6) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this section to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally – 35
- (a) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (b) section 187 of the Armed Forces Act 2006 or any corresponding earlier enactment. 40
- (7) For the purposes of this section “offence” includes an offence under a law that is no longer in force.

31S Prohibition of cross-examination in person: persons protected by injunctions etc 45

- (1) In family proceedings, no party to the proceedings against whom an on-notice protective injunction is in force may cross-examine in person a witness who is protected by the injunction.

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- (2) In family proceedings, no party to the proceedings who is protected by an on-notice protective injunction may cross-examine in person a witness against whom the injunction is in force.
- (3) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the protective injunction when the cross-examination took place. 5
- (4) In this section “protective injunction” means an order, injunction or interdict specified, or of a description specified, in regulations made by the Lord Chancellor. 10
- (5) For the purposes of this section, a protective injunction is an “on-notice” protective injunction if –
- (a) the court is satisfied that there has been a hearing at which the person against whom the protective injunction is in force asked, or could have asked, for the injunction to be set aside or varied, or 15
 - (b) the protective injunction was made at a hearing of which the court is satisfied that both the person who applied for it and the person against whom it is in force had notice.
- 31T Direction for prohibition of cross-examination in person: other cases** 20
- (1) In family proceedings, the court may give a direction prohibiting a party to the proceedings from cross-examining (or continuing to cross-examine) a witness in person if –
- (a) neither section 31R nor section 31S operates to prevent the party from cross-examining the witness, and 25
 - (b) it appears to the court that –
 - (i) the quality condition or the significant distress condition is met, and
 - (ii) it would not be contrary to the interests of justice to give the direction. 30
- (2) The “quality condition” is met if the quality of evidence given by the witness on cross-examination –
- (a) is likely to be diminished if the cross-examination (or continued cross-examination) is conducted by the party in person, and
 - (b) would be likely to be improved if a direction were given under this section. 35
- (3) The “significant distress condition” is met if –
- (a) the cross-examination (or continued cross-examination) of the witness by the party in person would be likely to cause significant distress to the witness or the party, and 40
 - (b) that distress is likely to be more significant than would be the case if the witness were cross-examined other than by the party in person.
- (4) A direction under this section may be made by the court –
- (a) on an application made by a party to the proceedings, or 45
 - (b) of its own motion.

- (5) In determining whether the quality condition or the significant distress condition is met in the case of a witness or party, the court must have regard, among other things, to—
- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the party in person; 5
 - (b) any views expressed by the party as to whether or not the party is content to cross-examine the witness in person;
 - (c) the nature of the questions likely to be asked, having regard to the issues in the proceedings;
 - (d) any behaviour by the party in relation to the witness in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings; 10
 - (e) any behaviour by the witness in relation to the party in respect of which the court is aware that a finding of fact has been made in the proceedings or any other family proceedings; 15
 - (f) any behaviour by the party at any stage of the proceedings, both generally and in relation to the witness;
 - (g) any behaviour by the witness at any stage of the proceedings, both generally and in relation to the party;
 - (h) any relationship (of whatever nature) between the witness and the party. 20
- (6) Any reference in this section to the quality of a witness’s evidence are to its quality in terms of completeness, coherence and accuracy.
- (7) For this purpose “coherence” refers to a witness’s ability in giving evidence to give answers which— 25
- (a) address the questions put to the witness, and
 - (b) can be understood, both individually and collectively.

31U Directions under section 31T: supplementary

- (1) A direction under section 31T has binding effect from the time it is made until the witness in relation to whom it applies is discharged. 30
- (2) But the court may revoke a direction under section 31T before the witness is discharged, if it appears to the court to be in the interests of justice to do so, either—
- (a) on an application made by a party to the proceedings, or
 - (b) of its own motion. 35
- (3) The court may revoke a direction under section 31T on an application made by a party to the proceedings only if there has been a material change of circumstances since—
- (a) the direction was given, or
 - (b) if a previous application has been made by a party to the proceedings, the application (or the last application) was determined. 40
- (4) The court must state its reasons for—
- (a) giving a direction under section 31T;
 - (b) refusing an application for a direction under section 31T; 45
 - (c) revoking a direction under section 31T;

- (d) refusing an application for the revocation of a direction under section 31T.

31V Alternatives to cross-examination in person

- (1) This section applies where a party to family proceedings is prevented from cross-examining a witness in person by virtue of section 31R, 31S or 31T. 5
- (2) The court must consider whether (ignoring this section) there is a satisfactory alternative means –
- (a) for the witness to be cross-examined in the proceedings, or
 - (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings. 10
- (3) If the court decides that there is not, the court must –
- (a) invite the party to the proceedings to arrange for a qualified legal representative to act for the party for the purpose of cross-examining the witness, and 15
 - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether a qualified legal representative is to act for the party for that purpose.
- (4) Subsection (5) applies if, by the end of the period specified under subsection (3)(b), either – 20
- (a) the party has notified the court that no qualified legal representative is to act for the party for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no qualified legal representative is to act for the party for the purpose of cross-examining the witness. 25
- (5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by a qualified legal representative appointed by the court to represent the interests of the party. 30
- (6) If the court decides that it is, the court must appoint a qualified legal representative (chosen by the court) to cross-examine the witness in the interests of the party.
- (7) A qualified legal representative appointed by the court under subsection (6) is not responsible to the party. 35
- (8) For the purposes of this section –
- (a) a reference to cross-examination includes (in a case where a direction is given under section 31T after the party has begun cross-examining the witness) a reference to continuing to conduct cross-examination; 40
 - (b) “qualified legal representative” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act) in family proceedings. 45

31W Costs of legal representatives appointed under section 31V

- (1) The Lord Chancellor may by regulations make provision for the payment out of central funds of sums in respect of—
- (a) fees or costs properly incurred by a qualified legal representative appointed under section 31V, and 5
 - (b) expenses properly incurred in providing such a person with evidence or other material in connection with the appointment.
- (2) The regulations may provide for the amounts to be determined by the Lord Chancellor or such other person as the regulations may specify.
- (3) The regulations may provide for the amounts paid to be calculated in accordance with— 10
- (a) a rate or scale specified in the regulations, or
 - (b) other provision made by or under the regulations.

31X Regulations under Part 4B

- (1) Any power of the Lord Chancellor to make regulations under this Part— 15
- (a) is exercisable by statutory instrument,
 - (b) includes power to make different provision for different purposes, and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision. 20
- (2) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”

PART 4 25

OFFENCES COMMITTED OUTSIDE THE UK

76 Offences against the person committed outside the UK: England and Wales

- (1) If—
- (a) a person who is a United Kingdom national or is habitually resident in England and Wales does an act in a country outside the United Kingdom, 30
 - (b) the act constitutes an offence under the law in force in that country, and
 - (c) the act, if done in England and Wales, would constitute an offence to which this subsection applies,
- the person is guilty in England and Wales of that offence. 35
- (2) The offences to which subsection (1) applies are—
- (a) murder;
 - (b) manslaughter;
 - (c) an offence under section 18, 20 or 47 of the Offences Against the Person Act 1861 (offences relating to bodily harm or injury); 40
 - (d) an offence under section 23 or 24 of that Act (administering poison);
 - (e) an offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

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- (3) Subsection (1) does not apply where a person would, in the absence of that subsection, be guilty of an offence of murder or manslaughter under the law of England and Wales.
- (4) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsection (1)(b) however it is described in that law. 5
- (5) The condition in subsection (1)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice –
- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant’s opinion met, 10
 - (b) showing the grounds for that opinion, and
 - (c) requiring the prosecution to prove that it is met.
- (6) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (5). 15
- (7) In the Crown Court the question whether the condition is met is to be decided by the judge alone.
- (8) In this section –
- “act” includes a failure to act;
 - “country” includes territory; 20
 - “United Kingdom national” means an individual who is –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or 25
 - (c) a British protected person within the meaning of that Act.
- 77 Offences against the person committed outside the UK: Northern Ireland**
- (1) If –
- (a) a person who is a United Kingdom national or is habitually resident in Northern Ireland does an act in a country outside the United Kingdom, 30
 - (b) the act constitutes an offence under the law in force in that country, and
 - (c) the act, if done in Northern Ireland, would constitute an offence to which this subsection applies,
- the person is guilty in Northern Ireland of that offence.
- (2) The offences to which subsection (1) applies are – 35
- (a) murder;
 - (b) manslaughter;
 - (c) an offence under section 18, 20 or 47 of the Offences Against the Person Act 1861 (offences relating to bodily harm or injury);
 - (d) an offence under section 23 or 24 of that Act (administering poison); 40
 - (e) an offence under section 25 of the Criminal Justice Act (Northern Ireland) 1945 (child destruction).
- (3) Subsection (1) does not apply where a person would, in the absence of that subsection, be guilty of an offence of murder or manslaughter under the law of Northern Ireland. 45

-
- (4) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsection (1)(b) however it is described in that law.
- (5) The condition in subsection (1)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice – 5
- (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant’s opinion met,
 - (b) showing the grounds for that opinion, and
 - (c) requiring the prosecution to prove that it is met.
- (6) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (5). 10
- (7) In the Crown Court the question whether the condition is met is to be decided by the judge alone.
- (8) In this section – 15
- “act” includes a failure to act;
 - “country” includes territory;
 - “rules of court” means –
 - (a) in relation to proceedings in a magistrates’ court, magistrates’ court rules; 20
 - (b) in relation to proceedings in the Crown Court, Crown Court rules; - “United Kingdom national” means an individual who is –
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, 25
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.
- (9) The Interpretation Act (Northern Ireland) 1954 applies for the purposes of this section as it applies to an Act of the Northern Ireland Assembly. 30

78 Amendments relating to offences committed outside the UK

- (1) Part 1 of Schedule 2 contains amendments to provide for extra-territorial jurisdiction over certain other offences under the law of England and Wales.
- (2) Part 2 of Schedule 2 contains amendments to provide for extra-territorial jurisdiction over certain offences under the law of Scotland. 35
- (3) Part 3 of Schedule 2 contains amendments to provide for extra-territorial jurisdiction over certain other offences under the law of Northern Ireland.

PART 5

SUPPLEMENTARY AND FINAL PROVISIONS

Guidance

- 79 Power of Secretary of State to issue guidance about domestic abuse, etc**
- (1) The Secretary of State may issue guidance about – 5
 (a) the effect of any provision made by or under Part 1 or 3, section 76 or Part 1 of Schedule 2;
 (b) other matters relating to domestic abuse in England and Wales.
- (2) The Secretary of State must, in particular, issue guidance under this section about – 10
 (a) the effect of sections 1 and 2, including guidance as to particular kinds of behaviour that amount to domestic abuse;
 (b) the effect of domestic abuse on children.
- (3) Any guidance issued under this section must, so far as relevant, take account of the fact that the majority of victims of domestic abuse in England and Wales are female. 15
- (4) A person exercising public functions to whom guidance issued under this section relates must have regard to it in the exercise of those functions. But nothing in this section permits the Secretary of State to issue guidance to a court or tribunal. 20
- (5) The Secretary of State may from time to time revise any guidance issued under this section.
- (6) Before issuing or revising guidance under this section, the Secretary of State must consult – 25
 (a) the Domestic Abuse Commissioner,
 (b) the Welsh Ministers, so far as the guidance relates to a devolved Welsh authority, and
 (c) such other persons as the Secretary of State considers appropriate.
- (7) In subsection (6)(b) “devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006. 30
- (8) Subsection (6) does not apply in relation to any revisions of guidance issued under this section if the Secretary of State considers the proposed revisions of the guidance are insubstantial.
- (9) The Secretary of State must publish – 35
 (a) any guidance issued under this section, and
 (b) any revisions of that guidance.

Powers to make consequential or transitional provision, etc

80 Power of Secretary of State to make consequential amendments

- (1) The Secretary of State may by regulations make provision that is consequential on any provision made by or under Part 1 or 3, section 76 or Part 1 of Schedule 2. 5
- (2) The power to make regulations under this section may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an Act passed before, or in the same session of Parliament as, this Act.

81 Power to make transitional or saving provision 10

- (1) The Secretary of State may by regulations make such transitional or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of Part 1 or 3, section 76, 78(1) or 79, or Part 1 of Schedule 2.
- (2) The Department of Justice in Northern Ireland may by regulations make such transitional or saving provision as the Department considers appropriate in connection with the coming into force of any provision of Part 2, section 77 or 78(3), or Part 3 of Schedule 2. 15
- (3) Regulations under this section may (among other things) make any adaptations of provisions of this Act mentioned in subsection (1) or (2) (as the case may be) brought into force that appear to be appropriate in consequence of other provisions of this Act not yet having come into force. 20

Final provisions

82 Regulations

- (1) Any power of the Secretary of State to make regulations under this Act is exercisable by statutory instrument. 25
- (2) Any power of the Department of Justice in Northern Ireland to make regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Regulations under this Act may – 30
- (a) make different provision for different purposes or in relation to different areas;
 - (b) contain supplementary, incidental, consequential, transitional or saving provision.
- (4) Subsection (3) does not apply to regulations under section 85 (see instead subsection (6) of that section). 35
- (5) A statutory instrument containing regulations made by the Secretary of State under this Act is subject to annulment in pursuance of a resolution of either House of Parliament, unless the instrument – 40
- (a) is required by subsection (6) or any other enactment to be laid in draft before, and approved by a resolution of, each House of Parliament, or
 - (b) contains only regulations under section 34(7), 81 or 85.

- (6) A statutory instrument that contains (with or without other provisions) –
- (a) regulations under section 38(7), or
 - (b) regulations under section 80 that amend or repeal any Act,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 5

83 Financial provisions

There is to be paid out of money provided by Parliament –

- (a) *any expenditure incurred by a Minister of the Crown by virtue of this Act, and*
- (b) *any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.* 10

84 Extent

- (1) Except as set out below, this Act extends to England and Wales only.
- (2) Any amendment or repeal made by Chapter 2 or 3 of Part 1 has the same extent as the provision amended or repealed.
- (3) Section 78(2) and Part 2 of Schedule 2 extend to Scotland only. 15
- (4) The following provisions extend to Northern Ireland only –
 - (a) Part 2;
 - (b) sections 77 and 78(3) and Part 3 of Schedule 2.
- (5) The following provisions extend to England and Wales, Scotland and Northern Ireland – 20
 - (a) sections 80 to 83,
 - (b) this section, and
 - (c) sections 85 and 86.

85 Commencement

- (1) The following provisions of this Act come into force on the day on which this Act is passed – 25
 - (a) sections 80 to 84, this section and section 86;
 - (b) any power to make regulations under or by virtue of this Act.
- (2) Sections 76 and 78(1) and Part 1 of Schedule 2 come into force at the end of the period of two months beginning with the day on which this Act is passed. 30
- (3) Section 78(2) and Part 2 of Schedule 2 come into force in accordance with provision contained in regulations made by the Scottish Ministers.
- (4) The following provisions of this Act come into force in accordance with provision contained in regulations made by the Department of Justice in Northern Ireland – 35
 - (a) Part 2;
 - (b) sections 77 and 78(3) and Part 3 of Schedule 2.
- (5) The remaining provisions of this Act come into force in accordance with provision contained in regulations made by the Secretary of State.

- (6) Regulations under this section may make different provision for different purposes or in relation to different areas.
 - (7) Regulations under this section bringing any provision of Chapter 3 of Part 1 or section 54 into force only for a specified purpose or in relation to a specified area may –
 - (a) provide for that provision or section to be in force for that purpose or in relation to that area for a specified period;
 - (b) make transitional or saving provision relating to that provision or section ceasing to be in force at the end of the specified period.
 - (8) Regulations containing provision permitted by subsection (7)(a) may be amended by subsequent regulations under this section so as to continue any provision of Chapter 3 of Part 1 or section 54 in force for the specified purpose or in relation to the specified area for a further specified period.
- 86 Short title**
- This Act may be cited as the Domestic Abuse Act 2019.

SCHEDULES

SCHEDULE 1

Section 37

FURTHER PROVISION ABOUT REMAND UNDER SECTION 37

Introductory

- 1 This Schedule applies where a court has power to remand a person (“P”) under section 37. 5

Remand in custody or on bail

- 2 (1) The court may remand P in custody or on bail.
- (2) If remanded in custody, P is to be committed to custody to be brought before the court – 10
- (a) at the end of the period of remand, or
- (b) at such earlier time as the court may require.
- (3) The court may remand P on bail – 15
- (a) by taking from P a recognizance (with or without sureties) conditioned as provided in paragraph 3, or
- (b) by fixing the amount of the recognizances with a view to their being taken subsequently in accordance with paragraph 7 and, in the meantime, committing P to custody as mentioned in sub-paragraph (2).
- (4) Where P is brought before the court after remand, the court may further remand P. 20
- 3 (1) Where P is remanded on bail, the court may direct that P’s recognizance be conditioned for P’s appearance –
- (a) before the court at the end of the period of remand, or
- (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned. 25
- (2) Where a recognizance is conditioned for P’s appearance as mentioned in sub-paragraph (1)(b), the fixing of a time for P next to appear is to be treated as a remand.
- (3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand P afresh. 30
- 4 (1) The court may not remand P for a period exceeding eight clear days unless –
- (a) the court adjourns proceedings for the purpose mentioned in paragraph 5(1), or

- (b) P is remanded on bail and both P and the person who applied for the warrant under section 37 consent.

This is subject to paragraph 6.

- (2) Where the court has power to remand P in custody, P may be committed to the custody of a constable if the remand is for a period not exceeding three clear days. 5

Remand for medical examination and report

- 5 (1) If the court has reason to suspect that a medical report will be required, the power to remand a person under section 37 may be exercised for the purpose of enabling a medical examination to take place and a report to be made. 10
- (2) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.
- (3) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.
- (4) Sub-paragraph (5) applies if there is reason to suspect that a person who has been arrested under a warrant issued on an application made under section 37 is suffering from mental disorder within the meaning of the Mental Health Act 1983. 15
- (5) The court has the same power to make an order under section 35 of that Act (remand to hospital for report on accused’s mental condition) as the Crown Court has under that section in the case of an accused person (within the meaning of that section). 20

Further remand

- 6 (1) If the court is satisfied that a person (“P”) who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the end of the period of remand, the court may further remand P in P’s absence. 25
- (2) The power under sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging the person’s recognizance and those of any sureties for the person to a later time. 30
- (3) Where a person (“P”) remanded on bail is bound to appear before the court at any time and the court has no power to remand P under sub-paragraph (1), the court may (in P’s absence) enlarge P’s recognizance and those of any sureties for P to a later time.
- (4) The enlargement of P’s recognizance is to be treated as a further remand. 35
- (5) Paragraph 4(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

Postponement of taking of recognizance

- 7 Where under paragraph 2(3)(b) the court fixes the amount in which the principal and the sureties, if any, are to be bound, the recognizance may afterwards be taken by a person prescribed by rules of court, with the same consequences as if it had been entered into before the court. 40

Requirements imposed on remand on bail

- 8 The court may, when remanding a person on bail in accordance with this Schedule, require the person to comply, before release on bail or later, with any requirements that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice. 5

SCHEDULE 2

Section 78

AMENDMENTS RELATING TO OFFENCES COMMITTED OUTSIDE THE UK

PART 1

ENGLAND AND WALES 10

Protection from Harassment Act 1997

- 1 In the Protection from Harassment Act 1997, after section 4A insert –
- “4B Offences under sections 4 and 4A committed outside the United Kingdom**
- (1) If – 15
- (a) a person’s course of conduct consists of or includes conduct in a country outside the United Kingdom,
- (b) the course of conduct would constitute an offence under section 4 or 4A if it occurred in England and Wales, and
- (c) the person is a United Kingdom national or is habitually resident in England and Wales, 20
- the person is guilty in England and Wales of that offence.
- (2) In this section –
- “country” includes territory;
- “United Kingdom national” means an individual who is – 25
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or 30
- (c) a British protected person within the meaning of that Act.”

Sexual Offences Act 2003

- 2 (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 72 (offences outside the United Kingdom) – 35
- (a) in subsections (1)(b) and (2)(c), for “section” substitute “subsection”;
- (b) after subsection (2) insert –
- “(2A) If –

- (a) a person who is a United Kingdom national or United Kingdom resident does an act in a country outside the United Kingdom,
 - (b) the act constitutes an offence under the law in force in that country, and 5
 - (c) the act, if done in England and Wales, would constitute a sexual offence to which this subsection applies,
the person is guilty in England and Wales of that sexual offence.”; 10
 - (c) in subsection (3)(c), for “section” substitute “subsection”;
 - (d) in subsection (5), after “(2)” insert “, (2A)”;
 - (e) in subsection (6), after “(2)(b)” insert “, (2A)(b)”;
 - (f) in subsection (10), for “this section applies” substitute “subsections (1) to (3) apply”. 15
- (3) In Schedule 2 (sexual offences to which section 72 applies) –
- (a) in the heading, for “section 72” substitute “section 72(1) to (3)”;
 - (b) in paragraph 1, in the opening words, for “section 72 applies” substitute “subsections (1), (2) and (3) of section 72 apply”;
 - (c) after paragraph 1 insert – 20
“1A In relation to England and Wales, the sexual offences to which subsection (2A) of section 72 applies are an offence under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.”;
 - (d) in paragraph 3, after “paragraph 1” insert “or 1A”. 25

Serious Crime Act 2015

- 3 In the Serious Crime Act 2015, after section 76 (controlling or coercive behaviour in an intimate or family relationship) insert –
- “76A Offences under section 76 committed outside the United Kingdom**
- (1) If – 30
 - (a) a person’s behaviour consists of or includes behaviour in a country outside the United Kingdom,
 - (b) the behaviour would constitute an offence under section 76 if it occurred in England and Wales, and
 - (c) the person is a United Kingdom national or is habitually resident in England and Wales, 35the person is guilty in England and Wales of that offence.
 - (2) In this section –
 - “country” includes territory;
 - “United Kingdom national” means an individual who is – 40
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or 45

- (c) a British protected person within the meaning of that Act.”

PART 2

SCOTLAND

<i>Criminal Procedure (Scotland) Act 1995</i>	5
4 (1) Section 11 of the Criminal Procedure (Scotland) Act 1995 (certain offences committed outside Scotland) is amended as follows.	
(2) In subsections (1) and (2), for “British citizen or British subject” substitute “relevant person”.	
(3) After subsection (2) insert –	10
“(2A) Any relevant person who in a country outside the United Kingdom does any act which –	
(a) constitutes an offence under the law in force in that country, and	
(b) if done in Scotland would constitute the crime of assault, is guilty of the same crime and subject to the same punishment as if the act had been done in Scotland.	15
(2B) In subsections (1) to (2A) –	
“country” includes territory;	
“relevant person” means a person who is a United Kingdom national or is habitually resident in Scotland;	20
“United Kingdom national” means an individual who is –	
(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,	25
(b) a person who under the British Nationality Act 1981 is a British subject, or	
(c) a British protected person within the meaning of that Act.”	
<i>Sexual Offences (Scotland) Act 2009 (asp 9)</i>	30
5 (1) The Sexual Offences (Scotland) Act 2009 is amended as follows.	
(2) After section 54C insert –	
“54D Offences committed outside the United Kingdom: adult victims	
(1) If –	
(a) a person who is a UK national or is habitually resident in Scotland does an act in a country outside the United Kingdom,	35
(b) the act constitutes an offence under the law in force in that country, and	
(c) the act, if done in Scotland, would constitute an offence to which this subsection applies,	40
then the person commits that offence.	

- (2) The offences to which subsection (1) applies are offences under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.
- (3) A person may be prosecuted, tried and punished for an offence by virtue of this section – 5
- (a) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or
 - (b) in such sheriff court district as the Lord Advocate may determine,
- as if the offence had been committed in that district; and the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed in that district. 10
- (4) In this section –
- “country” includes territory;
 - “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation); 15
 - “UK national” means an individual who is –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, 20
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.” 25
- (3) In the heading of section 55, at the end insert “: child victims”.
- (4) For the heading of section 56 substitute “Section 55: continuity of law”.

Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)

- 6 In the Criminal Justice and Licensing (Scotland) Act 2010, after section 39 insert – 30
- “39A Offence of stalking committed outside the United Kingdom**
- (1) If –
- (a) a person’s course of conduct consists of or includes conduct in a country outside the United Kingdom,
 - (b) the course of conduct would constitute the offence of stalking if it occurred in Scotland, and 35
 - (c) the person is a United Kingdom national or is habitually resident in Scotland,
- then the person commits that offence.
- (2) If a person’s course of conduct consists entirely of conduct in a country outside the United Kingdom – 40
- (a) the person may be prosecuted, tried and punished for an offence of stalking by virtue of this section –
- (i) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or 45

- (ii) in such sheriff court district as the Lord Advocate may determine,
as if the offence had been committed entirely in that district, and
- (b) the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed entirely in that district. 5
- (3) In this section –
- “country” includes territory;
- “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation); 10
- “United Kingdom national” means an individual who is –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, 15
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person within the meaning of that Act.” 20

PART 3

NORTHERN IRELAND

Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))

- 7 In the Protection from Harassment (Northern Ireland) Order 1997, after Article 6 insert – 25
- “6A Offences under Article 6 committed outside the United Kingdom**
- (1) If –
- (a) a person’s course of conduct consists of or includes conduct in a country outside the United Kingdom,
- (b) the course of conduct would constitute an offence under Article 6 if it occurred in Northern Ireland, and 30
- (c) the person is a United Kingdom national or is resident in Northern Ireland,
- the person is guilty in Northern Ireland of that offence.
- (2) In this section – 35
- “country” includes territory;
- “United Kingdom national” means an individual who is –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, 40
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person within the meaning of that Act.”

Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))

- 8 In Article 76 of the Sexual Offences (Northern Ireland) Order 2008 (offences outside the United Kingdom) –
- (a) in paragraphs (1)(b) and (2)(c), for “Article” substitute “paragraph”;
 - (b) after paragraph (2) insert – 5
 - “(2A) If –
 - (a) a person who is a United Kingdom national or is resident in Northern Ireland does an act in a country outside the United Kingdom,
 - (b) the act constitutes an offence under the law in force in that country, and 10
 - (c) the act, if done in Northern Ireland, would constitute a sexual offence to which this paragraph applies, the person is guilty in Northern Ireland of that sexual offence.”; 15
 - (c) in paragraph (3)(c), for “Article” substitute “paragraph”;
 - (d) in paragraph (5), after “(2)” insert “, (2A)”;
 - (e) in paragraph (6), after “(2)(b)” insert “, (2A)(b)”;
 - (f) in paragraph (10), for “this Article applies” substitute “paragraphs (1), (2) and (3) apply”;
 - (g) after paragraph (10) insert – 20
 - “(10A) The sexual offences to which paragraph (2A) applies are an offence under any provision of Part 2 where the victim of the offence was 18 or over at the time of the offence.”;
 - (h) in paragraphs (11) and (12), after “paragraph (10)” insert “or (10A)”. 25

Domestic Abuse Bill

A

B I L L

To make provision in relation to domestic abuse; to make provision for and in connection with the establishment of a Domestic Abuse Commissioner; to prohibit cross-examination in person in family proceedings in certain circumstances; to make provision about certain violent or sexual offences, and offences involving other abusive behaviour, committed outside the United Kingdom; and for connected purposes.

*Presented by Secretary Sajid Javid
supported by
the Prime Minister,
Secretary David Gauke, Secretary Matthew Hancock,
Secretary James Brokenshire, Secretary Damian Hinds,
Secretary Amber Rudd, Secretary Karen Bradley,
the Attorney General,
Victoria Atkins and Edward Argar.*

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