

These notes relate to the Adult Support and Protection (Scotland) Act 2007 (asp 10) which received Royal Assent on 21 March 2007

ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1

Protection of Adults at Risk of Harm

Banning orders

Section 34 – Criteria for authorising longer detention

50. This section sets out the test that the sheriff must apply in deciding whether or not to order the further detention of the arrested person for a maximum of two days. The sheriff must be satisfied, based on the information provided by the fiscal, that a breach of the banning order or temporary banning order has taken place and also that there is a substantial risk that the detained person will breach the order again. Subsection (3) provides that the arrested person must be given an opportunity to make representations before the sheriff decides whether or not to grant an order under this section. If the sheriff decides not to authorise the further detention, the detained person must be released (unless he or she is to be detained in custody in respect of another matter).