

# **ADULT SUPPORT AND PROTECTION (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **THE ACT – AN OVERVIEW**

#### **Part 1**

#### **Protection of Adults at Risk of Harm**

#### **Protection orders and visits: supplementary**

#### ***Section 41 – Applications: procedure***

67. This section applies to applications for an assessment order, a removal order, a banning order, a temporary banning order or the variation or recall of a removal order, a banning order or a temporary banning order.
68. The applicant for an order must give notice of an application to both the subject of the application and the affected adult at risk (in the situation where the adult is neither the applicant nor the subject). Before granting an application, the sheriff must invite the subject of the application and the affected adult at risk (again where the adult is neither the applicant nor the subject) to be heard by, or represented before, the sheriff. An adult at risk can be accompanied by a friend, relative or representative at any hearing. The sheriff may appoint a person to safeguard the interests of the adult at risk.
69. However, subsection (2) allows the sheriff not to apply the provisions described in paragraph 67 above in any application if satisfied that doing so will protect an adult at risk from serious harm or will not prejudice any person affected by the disapplication. In addition, the provisions in sections 15(3) and 19(4), which require that a sheriff must have regard to relevant representations made in relation to removal orders and banning orders where the orders contain specified conditions relating to contact, may also be disapplied for the same reason.