



Adult Support and Protection (Scotland) Act 2007

2007 asp 10

PART 1

PROTECTION OF ADULTS AT RISK OF HARM

Protection orders and visits: supplementary

41 Applications: procedure

- (1) This section applies in relation to any application for—
 - (a) an assessment order,
 - (b) a removal order,
 - (c) a banning order,
 - (d) a temporary banning order,
 - (e) the variation or recall of a removal order, banning order or temporary banning order.
- (2) The sheriff may disapply any of the following provisions in relation to an 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—
 - (a) subsections (3) to (7),
 - (b) section 15(3),
 - (c) section 19(4).
- (3) The applicant must give notice of an application to—
 - (a) the subject of the application, and
 - (b) the affected adult at risk (where that person is neither the applicant nor the subject of the application).
- (4) The sheriff must, before determining an application, invite—
 - (a) the subject of the application, and
 - (b) the affected adult at risk (where that person is neither the applicant nor the subject of the application).

Changes to legislation: There are currently no known outstanding effects for the Adult Support and Protection (Scotland) Act 2007, Section 41. (See end of Document for details)

to be heard by, or represented before, the sheriff.

- (5) The affected adult at risk may be accompanied at any hearing conducted in respect of an application by a friend, a relative or any other representative chosen by the adult.
- (6) The sheriff may appoint a person to safeguard the interests of the affected adult at risk in any proceedings relating to an application.
- (7) Such an appointment may be made on such terms as the sheriff thinks fit.
- (8) Nothing in this section affects the Court of Session's power to make further provision under section 32 of the Sheriff Courts (Scotland) Act 1971 (c. 58) in connection with the procedure and practice to be followed in connection with an application.
- (9) For the purposes of this section, the “affected adult at risk” is—
 - (a) where an application relates to an assessment order or removal order, the subject of the application,
 - (b) where an application relates to a banning order or a temporary banning order, the person whom that order would protect, or is protecting, from harm.

Commencement Information

II S. 41 in force at 29.10.2008 by S.S.I. 2008/314, art. 2

Changes to legislation:

There are currently no known outstanding effects for the Adult Support and Protection (Scotland) Act 2007, Section 41.