



# Adult Support and Protection (Scotland) Act 2007 2007 asp 10

## PART 1

### PROTECTION OF ADULTS AT RISK OF HARM

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

#### **40** Urgent cases

- (1) A council which believes that the circumstances set out in subsection (2) have arisen may apply to a justice of the peace instead of the sheriff for—
  - (a) a removal order, or
  - (b) a warrant for entry in respect of a visit under section 7.
- (2) Those circumstances are—
  - (a) that it is not practicable to apply to the sheriff, and
  - (b) that an adult at risk is likely to be harmed if there is any delay in granting such an order or warrant.
- (3) A justice of the peace may grant a removal order only if satisfied, by evidence on oath—
  - (a) that the circumstances set out in subsection (2) have arisen, and
  - (b) as to the matter set out in section 15(1).
- (4) Subsections (3) to (7) of section 41 do not apply in relation to an application to a justice of the peace for a removal order.
- (5) A justice of the peace who grants a removal order must also grant a warrant for entry in relation to a visit under section 16.
- (6) A justice of the peace may grant a warrant for entry in relation to a visit under section 7 only if satisfied, by evidence on oath—
  - (a) that the circumstances set out in subsection (2) have arisen, and
  - (b) as to either of the matters set out in section 38(2).

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*Status: This is the original version (as it was originally enacted).*

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- (7) A removal order granted under this section must—
- (a) despite section 14(1)(a), specify a period of 12 hours beginning when the order is made as the period within which the person specified in the order may be moved in pursuance of the order, and
  - (b) specify a period of no longer than 24 hours as the period within which the order is to have effect.
- (8) Despite section 37(2)(a), a warrant for entry granted under this section expires 12 hours after it is granted.