

CHAPTER 85A

DOMESTIC ABUSE INTERDICTS

Interpretation and application of this Chapter

85A.1. – (1) In this Chapter

“the 2011 Act” means the Domestic Abuse (Scotland) Act 2011; and
“incoming protection measure” has the meaning given by rule 106.1 (mutual recognition of protection measures: interpretation);
“interdicts” includes interim interdict.

(2) This Chapter applies to an application for a determination under section 3(1) of the 2011 Act that an interdict is a domestic abuse interdict.

(3) This Chapter does not apply to an application for a determination under section 3(1) of the 2011 Act that an incoming protection measure is a domestic abuse interdict.

Applications for determination that an interdict is a domestic abuse interdict

85A.2. – (1) An application made before the interdict is obtained must be made by a conclusion of the summons, the prayer of the petition, the defences, answers or counterclaim in which the interdict is sought.

(2) An application made after the interdict is obtained must be –

- (a) made by motion in process; and
- (b) intimated to the person against whom the interdict was obtained.

(3) In respect of a determination of an application under paragraph (2), the following documents must be served along with the interlocutor in accordance with section 3(40) of the 2011 Act –

- (a) a copy of the application for interdict;
- (b) a copy of the interlocutor granting interdict; and
- (c) a copy of the certificate of service of the interdict.

(4) Paragraph (5) applies where, in respect of the same interdict –

- (a) a power of arrest under section 1 of the Protection from Abuse (Scotland) Act 2001^a is in effect; and
- (b) a determination under section 3(1) of the 2011 Act is made.

^a 2001 asp 14

(5) As soon as possible after the determination has been served under section 3(4) of the 2011 Act, the documents specified in paragraph (6) must be sent by the person who obtained the determination to such chief constable as the court sees fit.

(6) The documents are –

- (a) as copy of the application for interdict;
- (b) a copy of the interlocutor granting interdict;
- (c) a copy of the certificate of service of the interdict; and
- (d) where the application for a determination was made after the interdict was granted –
 - (i) a copy of the application for the determination;
 - (ii) a copy of the interlocutor granting it; and
 - (iii) a copy of the certificate of service of the determination.

(7) Where paragraph (5) applies and the determination is recalled under section 3(5) of the 2011 Act, the court must appoint a person to send a copy of the interlocutor recalling the determination to such chief constable as the court sees fit.

(8) Where a person is required by virtue of this Chapter to send documents to a chief constable, such person must, after such compliance, lodge in process a certificate of sending documents in Form 85A.2