

CHAPTER 85

APPLICATIONS UNDER THE PROTECTION FROM ABUSE (SCOTLAND) ACT 2001

Interpretation and application of this Chapter

85.1.—(1) In this Chapter—

“the Act of 2001” means the Protection from Abuse (Scotland) Act 2001;

“documents” includes documents in electronic form; and

“interdict” includes interim interdict.

“incoming protection measure” has the meaning given by rule 106.1 (mutual recognition of protection measures: interpretation);

(2) This Chapter does not apply to an application—

(a) under section 1(2) of the Act of 2001 to attach a power of arrest to an incoming protection measure; or

(b) under section 2(3) or 2(7) of the Act of 2001 relating to a power of arrest attached to an incoming protection measure.

Attachment of power of arrest to interdict

85.2.—(1) An application under section 1(1) of the 2001 Act (application for attachment of power of arrest to interdict)—

(a) shall be made by a conclusion of the summons, the prayer of the petition, the defences, answers or counterclaim in which the interdict to which it relates is applied for, or, if made after the application for interdict, by motion in the process of the action in which the interdict was sought; and

(b) shall be intimated to the person against whom the interdict is sought or obtained.

(2) Where the court attaches a power of arrest under section 1(2) or (1A)(a) of the Act of 2001 (order attaching power of arrest) the following documents shall be served along with the power of arrest in accordance with section 2(1) of the Act of 2001 (documents to be served along with power of arrest)—

(a) a copy of the application for interdict;

(b) a copy of the interlocutor granting interdict; and

(c) where the application to attach a power of arrest was made after the interdict was granted, a copy of the certificate of service of the interdict.

(3) After the power of arrest has been served, the following documents shall be delivered by the person who obtained the power to the chief constable in accordance with section 3(1) of the Act of 2001 (notification to the police)—

(a) a 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 to attach a power of arrest was made after the interdict was granted—

(i) a copy of the application for the power of arrest;

(ii) a copy of the interlocutor granting it; and

(iii) a copy of the certificate of service of the power of arrest and the documents that required to be served along with it in accordance with section 2(1) of the Act of 2001.

(a) Section 1(1A) was inserted by section 32 of the Family Law (Scotland) Act 2006.

- (e) where a determination has previously been made in respect of such interdict under section 3(1) of the Domestic Abuse (Scotland) Act 2011^a, a copy of the interlocutor making the determination.

Extension or recall of power of arrest

85.3.—(1) An application under section 2(3) (extension of duration of power of arrest) or section 2(7) (recall of power of arrest) of the Act of 2001 shall be made by minute in the process of the action in which the power of arrest was attached.

(2) Where the court extends the duration of, or recalls, a power of arrest, the person who obtained the extension or recall must deliver a copy of the interlocutor granting the extension or recall in accordance with section 3(1) of the Act of 2001.

Documents to be delivered to chief constable in relation to recall or variation of interdict

85.4. Where an interdict to which a power of arrest has been attached under section 1(2) of the Act of 2001 is varied or recalled, the person who obtained the variation or recall must deliver a copy of the interlocutor varying or recalling the interdict in accordance with section 3(1) of that Act.

Certificate of delivery of documents to chief constable

85.5. Where a person is required to comply with section 3(1) of the Act of 2001, he shall, after such compliance, lodge in process a certificate of delivery in Form 85.5.

^a) 2011 asp 13.