

SCHEDULE 3

Regulation 16(4)

Evidence to support security declarations

Orders and interdicts

1.—(1) Evidence to support a security declaration by an associate of a recorded person meets the requirements of this paragraph if—

- (a) the evidence is an order, interdict, injunction or measure of a kind referred to in subparagraph (2), or a copy of such an order, interdict, injunction or measure,
- (b) the order, interdict, injunction or measure is made for the protection, or otherwise for the benefit, of the associate or an individual connected with the associate, and
- (c) the order, interdict, injunction or measure is in force.

(2) The orders, interdicts, injunctions or measures referred to are—

- (a) a non-harassment order, interdict or interim interdict made under section 8 or 8A of the Protection from Harassment Act 1997(1),
- (b) a non-harassment order made under section 234A(2) of the Criminal Procedure (Scotland) Act 1995(2),
- (c) a matrimonial interdict within the meaning of section 14 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981(3),
- (d) a domestic interdict within the meaning of section 18A of the Matrimonial Homes (Family Protection) (Scotland) Act 1981(4),
- (e) a relevant interdict within the meaning of section 113 of the Civil Partnership Act 2004(5),
- (f) an interdict that has been determined to be a domestic abuse interdict within the meaning of section 3 of the Domestic Abuse (Scotland) Act 2011(6),
- (g) any interdict with an attached power of arrest made under section 1 of the Protection from Abuse (Scotland) Act 2001(7),
- (h) a forced marriage protection order or interim forced marriage protection order made under any of the following provisions—
 - (i) Part 4A of the Family Law Act 1996(8),
 - (ii) section 2 and paragraph 1 of schedule 1 of the Forced Marriage (Civil Protection) Act 2007(9),
 - (iii) section 1 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011(10), or

(1) 1997 c.40. Section 8 was amended by section 1(1) of the Domestic Abuse (Scotland) Act 2011 (asp 13) and section 16 and schedule 2 of the Damages (Scotland) Act 2011 (asp 7). Section 8A was inserted by section 1(2) of the Domestic Abuse (Scotland) Act 2011.

(2) 1995 c.46. Section 234A was inserted by section 11 of the Protection from Harassment Act 1997 (c.40).

(3) 1981 c.59. Section 14 was amended by section 10 and schedule 3 of the Family Law (Scotland) Act 2006 (asp 2) and by article 6 of the Family Law (Scotland) Act 2006 (Consequential Modifications) Order 2006 (S.S.I. 2006/384).

(4) Section 18A was inserted by section 31(3) of the Family Law (Scotland) Act 2006.

(5) 2004 c.33. Section 113 was amended by sections 33 and 45(2) and paragraph 8 of schedule 1 and schedule 3 of the Family Law (Scotland) Act 2006 and by article 10 of the Family Law (Scotland) Act 2006 (Consequential Modifications) Order 2006 (S.S.I. 2006/384).

(6) 2011 asp 13.

(7) 2001 asp 14. Section 1 was amended by sections 32 and 45(2) and schedule 3 of the Family Law (Scotland) Act 2006 (asp 2).

(8) 1996 c.27. Part 4A was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 (c.20).

(9) 2007 c.20.

(10) 2011 asp 15.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021* ISBN 978-0-11-104814-6

- (iv) section 5 of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011,
- (i) an injunction for the purpose of restraining a person from pursuing any conduct which amounts to harassment granted in proceedings under section 3 of the Protection from Harassment Act 1997**(11)**,
- (j) an injunction granted under section 3A(2) of the Protection from Harassment Act 1997**(12)**,
- (k) a restraining order made under section 5(1) of the Protection from Harassment Act 1997**(13)**,
- (l) a restraining order on acquittal made under section 5A(1) of the Protection from Harassment Act 1997**(14)**,
- (m) a non-molestation order made under section 42(2) of the Family Law Act 1996**(15)**,
- (n) an injunction for the purpose of restraining a person from pursuing any conduct which amounts to harassment granted in proceedings under article 5 of the Protection from Harassment (Northern Ireland) Order 1997**(16)**,
- (o) a restraining order made under article 7 of the Protection from Harassment (Northern Ireland) Order 1997**(17)**,
- (p) a restraining order on acquittal made under article 7A(1) of the Protection from Harassment (Northern Ireland) Order 1997**(18)**,
- (q) a non-molestation order made under article 20(2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998**(19)**,
- (r) a domestic violence protection order made under section 28 of the Crime and Security Act 2010**(20)** or section 97 and paragraph 5 of schedule 7 of the Justice Act (Northern Ireland) 2015**(21)**,
- (s) a female genital mutilation protection order made under section 5A and paragraphs 1 or 18 of schedule 2 of the Female Genital Mutilation Act 2003**(22)**,
- (t) any relevant protection measure ordered in another EU member state and entitled to be recognised in Scotland under Regulation (EU) 606/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters**(23)**.

Attestations

2.—(1) Evidence to support a security declaration by an associate meets the requirements in this regulation if the evidence is an attestation that certifies that the inclusion of one or more required details of the associate in the RCI would put the associate, or an individual connected with the associate, at risk of violence, abuse, threat of violence or abuse, or intimidation.

(11) [1997 c.40](#). Section 3(1) was amended by section 125(4) of the Serious Organised Crime and Police Act [2005 \(c.15\)](#).

(12) Section 3A was inserted by section 125(5) of the Serious Organised Crime and Police Act [2005 \(c.15\)](#).

(13) Section 5 was amended by section 125(6) of the Serious Organised Crime and Police Act [2005 \(c.15\)](#), and section 12(1) to (4), paragraph 43 of schedule 10 and paragraph 1 of schedule 11 of the Domestic Violence, Crime and Victims Act [2004 \(c.28\)](#).

(14) Section 5A was inserted by section 12(5) of the Domestic Violence, Crime and Victims Act [2004 \(c.28\)](#).

(15) [1996 c.27](#).

(16) [S.I. 1997/1180 \(N.I.9\)](#).

(17) Article 7 was amended by sections 13 and 58 and paragraph 47 of schedule 10 and paragraph 1 of schedule 11 of the Domestic Violence, Crime and Victims Act [2004 \(c.28\)](#).

(18) Article 7A was inserted by section 13(5) of the Domestic Violence, Crime and Victims Act 2004.

(19) [S.I. 1998/1071 \(N.I.6\)](#).

(20) [2010 c.17](#).

(21) [2015 c.9](#). Section 97 and paragraph 5 of schedule 7 are not yet in force.

(22) [2003 c.31](#). Section 5A and schedule 2 were inserted by section 73(1) and (2) of the Serious Crime Act [2015 \(c.9\)](#).

(23) OJ L 181, 29.6.2013, p.4.

- (2) The attestation must—
- (a) state the date on which the attestation is made,
 - (b) state the period for which it has effect (being a period of not less than 1 year, and not more than 5 years, beginning with the day on which the attestation is made), and
 - (c) be signed by a person referred to in sub-paragraph (3).
- (3) For the purposes of sub-paragraph (2)(c), the persons are—
- (a) a police officer holding the rank of inspector or above in—
 - (i) the Police Service of Scotland,
 - (ii) any police force in England and Wales,
 - (iii) the Police Service of Northern Ireland,
 - (b) the Director General of the Security Service,
 - (c) the Director General of the National Crime Agency,
 - (d) any chief social work officer in Scotland within the meaning of section 3 of the Social Work (Scotland) Act 1968⁽²⁴⁾,
 - (e) any director of adult social services in England within the meaning of section 6(A1) of the Local Authority Social Services Act 1970⁽²⁵⁾,
 - (f) any director of children’s services in England within the meaning of section 18 of the Children Act 2004⁽²⁶⁾,
 - (g) any director of social services in Wales within the meaning of section 6(A1) of the Local Authority Social Services Act 1970,
 - (h) any director of social services of a Health and Social Services Board established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽²⁷⁾,
 - (i) any executive director of social work of a Health and Social Services trust established under article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991⁽²⁸⁾,
 - (j) any registered medical practitioner,
 - (k) any registered nurse or midwife,
 - (l) any person who manages a refuge.
- (4) For the purposes of sub-paragraph (3)(l), “refuge” means accommodation together with a planned programme of therapeutic and practical support for victims of, or those at risk of, domestic abuse or violence.

⁽²⁴⁾ 1968 c.49. Section 3 was substituted by section 45 of the Local Government etc. (Scotland) Act 1994 (c.39).

⁽²⁵⁾ 1970 c.42. Subsection A1 was inserted by paragraph 2(2)(a) of schedule 2 of the Children Act 2004 (c.31).

⁽²⁶⁾ 2004 c.31. Section 18 was amended by paragraph 55 of schedule 2 of the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order (S.I. 2010/1158).

⁽²⁷⁾ S.I. 1972/1265 (N.I.14).

⁽²⁸⁾ S.I. 1991/191 (N.I. 1). Article 10 was amended by section 32 and paragraph 1 of schedule 6 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c.1).