



Domestic Abuse Act 2021

2021 CHAPTER 17

PART 3

POWERS FOR DEALING WITH DOMESTIC ABUSE

Domestic abuse protection orders

46 Appeals

- (1) A person listed in subsection (2) may appeal against any decision of a court on an application for a domestic abuse protection order under section 28 (to the extent that it would not otherwise be so appealable).
- (2) The persons referred to in subsection (1) are—
 - (a) the person for whose protection the order was sought,
 - (b) the person who applied for the order (if different), and
 - (c) where the court made a domestic abuse protection order under section 28, the person against whom it was made.
- (3) A person against whom a domestic abuse protection order is made under subsection (3), (5) or (6) of section 31 may appeal against the making of the order (to the extent it would not otherwise be so appealable) as if it were a sentence passed on the person for the offence referred to in that subsection (assuming, in a case within section 31(5) or (6), that the person had been convicted of the offence).
- (4) A person against whom a domestic abuse protection order is made may appeal against a variation of the order under section 44 that is made in a case within subsection (3), (5) or (6) of section 31 (to the extent it would not otherwise be so appealable) as if the varied order were a sentence passed on the person for the offence referred to in that subsection (assuming, in a case within section 31(5) or (6), that the person had been convicted of the offence).

Status: This is the original version (as it was originally enacted).

- (5) A person listed in subsection (6) may appeal against any decision of a court under section 44 in relation to a domestic abuse protection order (to the extent it would not otherwise be so appealable, whether under subsection (4) or otherwise).
- (6) The persons referred to in subsection (5) are—
- (a) the person for whose protection the order was made;
 - (b) the person against whom the order was made (“P”);
 - (c) where the order was made under section 28, the person who applied for the order;
 - (d) the chief officer of police of the force maintained for any police area in which P resides;
 - (e) the chief officer of police of any other force maintained for a police area who believes that P is in that police area or is intending to come to it.
- (7) An appeal arising by virtue of subsection (1) or (5)—
- (a) in the case of a decision made by a magistrates’ court, is to be made to the Crown Court;
 - (b) in the case of a decision made by the Crown Court, is to be made to the Court of Appeal.
- For the powers of the Crown Court or Court of Appeal on such an appeal, see section 47(4).
- (8) If, in the case of an appeal arising by virtue of subsection (1) or (5) in respect of a decision made by the High Court, the family court or the county court, the person making the appeal was not a party to the proceedings in that court, the person is to be treated for the purposes of that appeal as if the person had been a party to those proceedings.
- (9) For further provision about appeals, see (in particular)—
- (a) section 31K of the Matrimonial and Family Proceedings Act 1984 (appeals from the family court),
 - (b) section 16(1) of the Senior Courts Act 1981 (appeals from the High Court),
 - (c) section 77 of the County Courts Act 1984 (appeals from the county court),
 - (d) section 108(3) of the Magistrates’ Courts Act 1980 (appeals against orders made on conviction in a magistrates’ court),
 - (e) section 50(1) of the Criminal Appeal Act 1968 (appeals against orders made on conviction in the Crown Court), and
 - (f) rules of court.