



Northern Ireland
Assembly

Justice Bill

Notice of Amendments tabled on
17 April 2015 for Consideration Stage

Clause 17, Page 11, Line 39

After ‘conviction,’ insert ‘excepting violent or controlling or coercive offences by a current or previous intimate partner.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

New Clause

After clause 49 insert -

‘PART 6A

DOMESTIC VIOLENCE PROTECTION NOTICES, ORDERS AND DISCLOSURES

Power to issue a domestic violence protection notice

49A.—(1) A member of a police force not below the rank of superintendent (“the authorising officer”) may issue a domestic violence protection notice (“a DVPN”) under this section.

(2) A DVPN may be issued to a person (“P”) aged 16 years or over if the authorising officer has reasonable grounds for believing that—

- (a) P has been violent towards, or has threatened violence towards or controlled or coerced, a former or current intimate partner or an associated person, and
- (b) the issue of the DVPN is necessary to protect that person from violence or a threat of violence by P.

(3) Before issuing a DVPN, the authorising officer must, in particular, consider—

- (a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the issuing of the DVPN (whether or not that person is an associated person);
 - (b) the opinion of the person for whose protection the DVPN would be issued as to the issuing of the DVPN;
 - (c) any representations made by P as to the issuing of the DVPN, and
 - (d) in the case of provision included by virtue of subsection (8), the opinion of any other associated person who lives in the premises to which the provision would relate.
- (4) The authorising officer must take reasonable steps to discover the opinions mentioned in subsection (3).
- (5) But the authorising officer may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN.
- (6) A DVPN must contain provision to prohibit P from molesting the person for whose protection it is issued.
- (7) Provision required to be included by virtue of subsection (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.
- (8) If P lives in premises which are also lived in by a person for whose protection the DVPN is issued, the DVPN may also contain provision—
- (a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPN is issued;
 - (b) to prohibit P from entering the premises;
 - (c) to require P to leave the premises, or
 - (d) to prohibit P from coming within such distance of the premises as may be specified in the DVPN.
- (9) An “associated person” means a person who is associated with P within the meaning of section 62 of the Family Law Act 1996;
- (10) Subsection (11) applies where a DVPN includes provision in relation to premises by virtue of subsection (8)(b) or (8)(c) and the authorising officer believes that—
- (a) P is a person subject to service law in accordance with sections 367 to 369 of the Armed Forces Act 2006, and
 - (b) the premises fall within paragraph (a) of the definition of “service living accommodation” in section 96(1) of that Act.
- (11) The authorising officer must make reasonable efforts to inform P’s commanding officer (within the meaning of section 360 of the Armed Forces Act 2006) of the issuing of the notice.
- (12) A former or current intimate partner means a person who is personally connected with P within the meaning of section 76 of the Serious Crime Act 2015.
- (13) Controlling or coercive behaviour includes behaviour by P that is within the meaning of section 76 of the Serious Crime Act 2015 and financial coercion.
- (14) Financial coercion means a series of acts of manipulation by P to the financial detriment of A as provided in regulations by Department.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Contents and service of a domestic violence protection notice

49B.—(1) A DVPN must state—

- (a) the grounds on which it has been issued;
- (b) that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN;
- (c) that an application for a domestic violence protection order under section 49D will be heard within 48 hours of the time of service of the DVPN and a notice of the hearing will be given to P;
- (d) that the DVPN continues in effect until that application has been determined, and
- (e) the provision that a magistrates’ court may include in a domestic violence protection order.

(2) A DVPN must be in writing and must be served on P personally by a constable.

(3) On serving P with a DVPN, the constable must ask P for an address for the purposes of being given the notice of the hearing of the application for the domestic violence protection order.’

Mrs Dolores Kelly

Mrs Karen McKeivitt

Mr Alban Maginness

Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Breach of a domestic violence protection notice

49C.—(1) A person arrested by virtue of section 49B(1)(b) for a breach of a DVPN must be held in custody and brought before the magistrates’ court which will hear the application for the DVPO under section 49D—

- (a) before the end of the period of 24 hours beginning with the time of the arrest, or
- (b) if earlier, at the hearing of that application.

(2) If the person is brought before the court by virtue of subsection (1)(a), the court may remand the person.

(3) If the court adjourns the hearing of the application by virtue of section 49D(8), the court may remand the person.’

Mrs Dolores Kelly

Mrs Karen McKeivitt

Mr Alban Maginness

Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Application for a domestic violence protection order

49D.—(1) If a DVPN has been issued, a constable must apply for a domestic violence protection order (“a DVPO”).

(2) The application must be made by complaint to a magistrates’ court.

(3) The application must be heard by the magistrates’ court not later than 48 hours after the DVPN was served pursuant to section 49B(2).

(4) A notice of the hearing of the application must be given to P.

(5) The notice is deemed given if it has been left at the address given by P under section 49B(3).

(6) But if the notice has not been given because no address was given by P under section 49B(3), the court may hear the application for the DVPO if the court is satisfied that the constable applying for the DVPO has made reasonable efforts to give P the notice.

(7) The magistrates’ court may adjourn the hearing of the application.

(8) If the court adjourns the hearing, the DVPN continues in effect until the application has been determined.

(9) On the hearing of an application for a DVPO, section 20 of the Magistrates’ Courts (Northern Ireland) Order 1981 does not apply in relation to a person for whose protection the DVPO would be made, except where the person has given oral or written evidence at the hearing.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Conditions for and contents of a domestic violence protection order

49E.—(1) The court may make a DVPO if two conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that P has been violent towards, or has threatened violence towards or coerced, a former or current intimate partner or, an associated person.

(3) The second condition is that the court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by P.

(4) Before making a DVPO, the court must, in particular, consider—

(a) the welfare of any person under the age of 18 whose interests the court considers relevant to the making of the DVPO (whether or not that person is a former or current intimate partner or an associated person), and

(b) any opinion of which the court is made aware—

(i) of the person for whose protection the DVPO would be made, and

(ii) in the case of provision included by virtue of subsection (8), of any other associated person who lives in the premises to which the provision would relate.

(5) But the court may make a DVPO in circumstances where the person for whose protection it is made does not consent to the making of the DVPO.

(6) A DVPO must contain provision to prohibit P from molesting the person for whose protection it is made.

(7) Provision required to be included by virtue of subsection (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

(8) If P lives in premises which are also lived in by a person for whose protection the DVPO is made, the DVPO may also contain provision—

- (a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPO is made;
- (b) to prohibit P from entering the premises;
- (c) to require P to leave the premises, or
- (d) to prohibit P from coming within such distance of the premises as may be specified in the DVPO.

(9) A DVPO must state that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPO.

(10) A DVPO may be in force for—

- (a) no fewer than 14 days beginning with the day on which it is made, and
- (b) no more than 28 days beginning with that day.

(11) A DVPO must state the period for which it is to be in force.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Breach of a domestic violence protection order

49F.—(1) A person arrested by virtue of section 49E(9) for a breach of a DVPO must be held in custody and brought before a magistrates’ court within the period of 24 hours beginning with the time of the arrest.

(2) If the matter is not disposed of when the person is brought before the court, the court may remand the person.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Further provision about remand

49G.—(1) This section applies for the purposes of the remand of a person by a magistrates’ court under section 49C(2) or (3) or 49F(2).

(2) In the instance of a magistrates’ court remanding a person on bail for a period exceeding 8 clear days under section 47(4) of the Magistrates’ Courts (Northern Ireland) Order 1981, for those purposes the reference to the “other party” is to be read—

- (a) in the case of a remand prior to the hearing of an application for a DVPO, as a reference to the authorising officer;
- (b) in any other case, as a reference to the constable who applied for the DVPO.

(3) If the court has reason to suspect that a medical report will be required, the power to remand a person may be exercised for the purpose of enabling a medical examination to take place and a report to be made.

(4) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.

(5) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.

(6) If the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986, the court has the same power to make an order under section 42 of that Act (remand to hospital for medical report) as it has under that section in the case of an accused person (within the meaning of that section).

(7) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.’

Mrs Dolores Kelly

Mrs Karen McKeivitt

Mr Alban Maginness

Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Domestic Violence Disclosures

Guidance

49H.—(1) The Department must provide guidance relating to the exercise by a constable of functions under sections 49A to 49H to enable him or her to—

- (a) undertake full checks to inform a risk assessment and disclosure of P’s previous history of domestic violence or violent acts at the request of the current or former intimate partner of P;
- (b) proactively disclose information in prescribed circumstances to a current or former intimate partner of P relating to P’s previous history of domestic violence or violent acts.

(2) A constable must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.

- (3) Before issuing guidance under this section, the Department must consult—
- (a) the Association of Chief Police Officers;
 - (b) the Police Service of Northern Ireland, and
 - (c) such other persons as the Department should think fit.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood

New Clause

After clause 49 insert -

‘Pilot schemes

49I.—(1) The Department may by order made by statutory instrument provide for any provision of sections 49A to 49H to come into force for a period of time to be specified in or under the order for the purpose of assessing the effectiveness of the provision.

(2) Such an order may make different provision for different areas.

(3) More than one order may be made under this section.

(4) Provision included in an order under this section does not affect the provision that may be included in relation to sections 49A to 49G in an order under section 91.’

Mrs Dolores Kelly
Mrs Karen McKeivitt
Mr Alban Maginness
Mr Colum Eastwood