

Introduction

The new Family Law (Scotland) Act 2006 includes provisions to greatly extend the protection currently given by interdicts available under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.

The Act includes measures to extend the range of places that an interdict can be applied to.

Matrimonial Interdict

The new version of the matrimonial interdict can prevent an abusing **spouse** from entering or remaining in:-

- a matrimonial home
- any other residence occupied by the woman
- the woman's place of work; or
- any school attended by her children.

If a matrimonial interdict is granted along with an Exclusion Order, or an Interim Exclusion Order, the court **must** attach a power of arrest to the interdict.

Domestic Interdicts

These new interdicts will **only** apply to couples living together, either opposite-sex or same-sex. You **must** be **cohabiting** to obtain this interdict. If you are not living with your partner, you can only apply for an interdict under the Protection from Abuse (Scotland) Act 2001 but you do not lose out in protection as you can still ask the court to prevent your partner from entering or remaining in the same places that the Domestic Interdict covers.

Domestic interdicts will have much the same effect in relation to cohabitants as matrimonial interdicts have for married couples and will cover the same areas. However, the courts have complete discretion as to whether a power of arrest can be attached to a domestic interdict.

The courts will **not** grant **either** a domestic interdict or a matrimonial interdict banning an abusive partner or spouse from entering or remaining in the matrimonial/shared home **UNLESS** the interdict comes with an Exclusion Order/Interim Exclusion Order, **or** the court refuses the abusive party the right to exercise their occupancy rights or recalls a court order already in force that granted them occupancy rights.

Powers of Arrest

Power of arrest can be attached to either of these two interdicts using the Protection from Abuse (Scotland) Act 2001.

The various procedures to be followed by the police before and after an arrest of any person in breach of an interdict, and also by the Procurator Fiscal and the Sheriff before and after any court appearance by that person, will also now come under the Protection from Abuse (Scotland) Act 2001.