

## ELIZABETH II



# Domestic Violence and Matrimonial Proceedings Act 1976

## 1976 CHAPTER 50

An Act to amend the law relating to matrimonial injunction; to provide the police with powers of arrest for the breach of injunction in cases of domestic violence; to amend section 1(2) of the Matrimonial Homes Act 1967; to make provision for varying rights of occupation where both spouses have the same rights in the matrimonial home; and for purposes connected therewith. [26th October 1976]

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Without prejudice to the jurisdiction of the High Court, **Matrimonial** on an application by a party to a marriage a county court shall **injunctions in** have jurisdiction to grant an injunction containing one or more **the county** of the following provisions, namely,— **court.**

- (a) a provision restraining the other party to the marriage from molesting the applicant;
- (b) a provision restraining the other party from molesting a child living with the applicant;
- (c) a provision excluding the other party from the matrimonial home or a part of the matrimonial home or from a specified area in which the matrimonial home is included;

- (d) a provision requiring the other party to permit the applicant to enter and remain in the matrimonial home or a part of the matrimonial home;

whether or not any other relief is sought in the proceedings.

(2) Subsection (1) above shall apply to a man and a woman who are living with each other in the same household as husband and wife as it applies to the parties to a marriage and any reference to the matrimonial home shall be construed accordingly.

Arrest for  
breach of  
injunction.

2.—(1) Where, on an application by a party to a marriage, a judge grants an injunction containing a provision (in whatever terms)—

- (a) restraining the other party to the marriage from using violence against the applicant, or
- (b) restraining the other party from using violence against a child living with the applicant, or
- (c) excluding the other party from the matrimonial home or from a specified area in which the matrimonial home is included,

the judge may, if he is satisfied that the other party has caused actual bodily harm to the applicant or, as the case may be, to the child concerned and considers that he is likely to do so again, attach a power of arrest to the injunction.

(2) References in subsection (1) above to the parties to a marriage include references to a man and a woman who are living with each other in the same household as husband and wife and any reference in that subsection to the matrimonial home shall be construed accordingly.

(3) If, by virtue of subsection (1) above, a power of arrest is attached to an injunction, a constable may arrest without warrant a person whom he has reasonable cause for suspecting of being in breach of such a provision of that injunction as falls within paragraphs (a) to (c) of subsection (1) above by reason of that person's use of violence or, as the case may be, of his entry into any premises or area.

(4) Where a power of arrest is attached to an injunction and a person to whom the injunction is addressed is arrested under subsection (3) above,—

- (a) he shall be brought before a judge within the period of 24 hours beginning at the time of his arrest, and
- (b) he shall not be released within that period except on the direction of the judge,

but nothing in this section shall authorise his detention at any time after the expiry of that period.

(5) Where, by virtue of a power of arrest attached to an injunction, a constable arrests any person under subsection (3) above, the constable shall forthwith seek the directions—

(a) in a case where the injunction was granted by the High Court, of that court, and

(b) in any other case, of a county court,

as to the time and place at which that person is to be brought before a judge.

3. In section 1(2) of the Matrimonial Homes Act 1967 (which provides for applications for orders of the court declaring, enforcing, restricting or terminating rights of occupation under the Act or regulating the exercise by either spouse of the right to occupy the dwelling-house),—

Amendment of Matrimonial Homes Act 1967. 1967 c. 75.

(a) for the word “regulating” there shall be substituted the words “prohibiting, suspending or restricting”; and

(b) at the end of the subsection there shall be added the words “or requiring either spouse to permit the exercise by the other of that right”.

4.—(1) Where each of two spouses is entitled, by virtue of a legal estate vested in them jointly, to occupy a dwelling-house in which they have or at any time have had a matrimonial home, either of them may apply to the court, with respect to the exercise during the subsistence of the marriage of the right to occupy the dwelling-house, for an order prohibiting, suspending or restricting its exercise by the other or requiring the other to permit its exercise by the applicant.

Order restricting occupation of matrimonial home.

(2) In relation to orders under this section, section 1(3), (4) and (6) of the Matrimonial Homes Act 1967 (which relate to the considerations relevant to and the contents of, and to the jurisdiction to make, orders under that section) shall apply as they apply in relation to orders under that section; and in this section “dwelling-house” has the same meaning as in that Act.

(3) Where each of two spouses is entitled to occupy a dwelling-house by virtue of a contract, or by virtue of any enactment giving them the right to remain in occupation, this section shall apply as it applies where they are entitled by virtue of a legal estate vested in them jointly.

5.—(1) This Act may be cited as the Domestic Violence and Matrimonial Proceedings Act 1976.

Short title, commencement and extent.

(2) This Act shall come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument, and different days may be so appointed for different provisions of this Act:

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Provided that if any provisions of this Act are not in force on 1st April 1977, the Lord Chancellor shall then make an order by statutory instrument bringing such provisions into force.

(3) This Act shall not extend to Northern Ireland or Scotland.

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PRINTED IN ENGLAND BY HAROLD GLOVER

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

12p net

ISBN 0 10 545076 6

(377163)