



Family Law Act 1996

1996 CHAPTER 27

PART IV

FAMILY HOMES AND DOMESTIC VIOLENCE

General

62 Meaning of “cohabitants”, “relevant child” and “associated persons”.

- (1) For the purposes of this Part—
- (a) “cohabitants” are [^{F1}[^{F2}two persons who are neither married to each other nor civil partners of each other but are living together as husband and wife or as if they were civil partners;] and]
 - (b) [^{F3}“cohabit” and “former cohabitants” are to be read accordingly, but the latter expression] does not include cohabitants who have subsequently married each other [^{F4}or become civil partners of each other].
- (2) In this Part, “relevant child”, in relation to any proceedings under this Part, means—
- (a) any child who is living with or might reasonably be expected to live with either party to the proceedings;
 - (b) any child in relation to whom an order under the ^{M1}Adoption Act 1976 [^{F5}, the Adoption and Children Act 2002] or the ^{M2}Children Act 1989 is in question in the proceedings; and
 - (c) any other child whose interests the court considers relevant.
- (3) For the purposes of this Part, a person is associated with another person if—
- (a) they are or have been married to each other;
 - [^{F6}(aa) they are or have been civil partners of each other;]
 - (b) they are cohabitants or former cohabitants;
 - (c) they live or have lived in the same household, otherwise than merely by reason of one of them being the other’s employee, tenant, lodger or boarder;
 - (d) they are relatives;

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- (e) they have agreed to marry one another (whether or not that agreement has been terminated);
 - [^{F7}(ea) they have or have had an intimate personal relationship with each other which is or was of significant duration;]
 - [^{F8}(eza) they have entered into a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) (whether or not that agreement has been terminated);]
 - (f) in relation to any child, they are both persons falling within subsection (4); or
 - (g) they are parties to the same family proceedings (other than proceedings under this Part).
- (4) A person falls within this subsection in relation to a child if—
- (a) he is a parent of the child; or
 - (b) he has or has had parental responsibility for the child.
- (5) If a child has been adopted or [^{F9}falls within subsection (7)], two persons are also associated with each other for the purposes of this Part if—
- (a) one is a natural parent of the child or a parent of such a natural parent; and
 - (b) the other is the child or any person—
 - (i) who has become a parent of the child by virtue of an adoption order or has applied for an adoption order, or
 - (ii) with whom the child has at any time been placed for adoption.
- (6) A body corporate and another person are not, by virtue of subsection (3)(f) or (g), to be regarded for the purposes of this Part as associated with each other.
- [^{F10}(7) A child falls within this subsection if—
- (a) an adoption agency, within the meaning of section 2 of the Adoption and Children Act 2002, has power to place him for adoption under section 19 of that Act (placing children with parental consent) or he has become the subject of an order under section 21 of that Act (placement orders), or
 - (b) he is freed for adoption by virtue of an order made—
 - (i) in England and Wales, under section 18 of the Adoption Act 1976,
 - (ii) in Scotland, under section 18 of the Adoption (Scotland) Act 1978, or
 - (iii) in Northern Ireland, under Article 17(1) or 18(1) of the Adoption (Northern Ireland) Order 1987.]

Textual Amendments

- F1** Words in s. 62(1)(a) substituted (5.12.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 3, 60](#); [S.I. 2005/3196](#), [art. 2\(b\)](#)
- F2** Words in s. 62(1)(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 82, 263](#), [Sch. 9 para. 13\(1\)\(2\)\(a\)](#); [S.I. 2005/3175](#), [art. 2\(8\)](#)
- F3** Words in s. 62(1)(b) substituted (5.12.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 58\(1\), 60](#), [Sch. 10 para. 40](#); [S.I. 2005/3196](#), [art. 2\(c\)](#)
- F4** Words in s. 62(1)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 82, 263](#), [Sch. 9 para. 13\(1\)\(2\)\(b\)](#); [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)
- F5** Words in s. 62(2)(b) inserted (30.12.2005) by [2002 c. 38](#), [ss. 139\(1\), 148\(1\)](#), [Sch. 3 para. 86\(a\)](#) (with [Sch. 4 paras. 6-8](#)); [S.I. 2005/2213](#), [art. 2\(o\)](#)
- F6** S. 62(3)(aa) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 82, 263](#), [Sch. 9 para. 13\(1\)\(3\)](#); [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

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- F7** S. 62(3)(ea) inserted (1.7.2007) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 4, 60; S.I. 2007/1845, art. 2(b)
- F8** S. 62(3)(eza) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, Sch. 9 para. 13(1)(4); S.I. 2005/3175, art. 2(1), Sch. 1
- F9** Words in s. 62(5) substituted (30.12.2005) by 2002 c. 38, ss. 139(1), 148(1), Sch. 3 para. 86(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)
- F10** S. 62(7) inserted (30.12.2005) by 2002 c. 38, ss. 139(1), 148(1), Sch. 2 para. 87 (with Sch. 4 paras. 6-8); S.I. 2005/2213, art. 2(o)

Marginal Citations

- M1** 1976 c. 36.
M2 1989 c. 41.

63 Interpretation of Part IV.

(1) In this Part—

[^{F11} “adoption order” means an adoption order within the meaning of section 72(1) of the Adoption Act 1976 or section 46(1) of the Adoption and Children Act 2002;]

“associated”, in relation to a person, is to be read with section 62(3) to (6);

“child” means a person under the age of eighteen years;

[^{F12} “cohabit”,] “cohabitant” and “former cohabitant” have the meaning given by section 62(1);

“the court” is to be read with section 57;

“development” means physical, intellectual, emotional, social or behavioural development;

“dwelling-house” includes (subject to subsection (4))—

(a) any building or part of a building which is occupied as a dwelling,

(b) any caravan, house-boat or structure which is occupied as a dwelling,

and any yard, garden, garage or outhouse belonging to it and occupied with it;

“family proceedings” means any proceedings—

(a) under the inherent jurisdiction of the High Court in relation to children;
or

(b) under the enactments mentioned in subsection (2);

“harm”—

(a) in relation to a person who has reached the age of eighteen years, means ill-treatment or the impairment of health; and

(b) in relation to a child, means ill-treatment or the impairment of health or development;

“health” includes physical or mental health;

[^{F13} “home rights” has the meaning given by section 30;]

“ill-treatment” includes forms of ill-treatment which are not physical and, in relation to a child, includes sexual abuse;

^{F14}

“mortgage”, “mortgagor” and “mortgagee” have the same meaning as in the ^{M3}Law of Property Act 1925;

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“mortgage payments” includes any payments which, under the terms of the mortgage, the mortgagor is required to make to any person;

“non-molestation order” has the meaning given by section 42(1);

“occupation order” has the meaning given by section 39;

“parental responsibility” has the same meaning as in the ^{M4}Children Act 1989;

“relative”, in relation to a person, means—

- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s [^{F15}spouse, former spouse, civil partner or former civil partner], or
- (b) the brother, sister, uncle, aunt, niece [^{F16}, nephew or first cousin] (whether of the full blood or of the half blood or [^{F17}by marriage or civil partnership]) of that person or of that person’s [^{F15}spouse, former spouse, civil partner or former civil partner],

and includes, in relation to a person who [^{F18}is cohabiting or has cohabited with another person], any person who would fall within paragraph (a) or (b) if the parties were married to each other [^{F19}or were civil partners of each other];

“relevant child”, in relation to any proceedings under this Part, has the meaning given by section 62(2);

“the relevant judicial authority”, in relation to any order under this Part, means—

- (a) where the order was made by the High Court, a judge of that court;
- (b) where the order was made by a county court, a judge or district judge of that or any other county court; or
- (c) where the order was made by a magistrates’ court, any magistrates’ court.

(2) The enactments referred to in the definition of “family proceedings” are—

- (a) Part II;
- (b) this Part;
- [^{F20}(ba) Part 4A;]
- (c) the ^{M5}Matrimonial Causes Act 1973;
- (d) the ^{M6}Adoption Act 1976;
- (e) the ^{M7}Domestic Proceedings and Magistrates’ Courts Act 1978;
- (f) Part III of the ^{M8}Matrimonial and Family Proceedings Act 1984;
- (g) Parts I, II and IV of the ^{M9}Children Act 1989;
- (h) section 30 of the ^{M10}Human Fertilisation and Embryology Act 1990.
- [^{F21}(i) the Adoption and Children Act 2002.]
- [^{F22}(j) Schedules 5 to 7 to the Civil Partnership Act 2004.]

(3) Where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.

(4) For the purposes of sections 31, 32, 53 and 54 and such other provisions of this Part (if any) as may be prescribed, this Part is to have effect as if paragraph (b) of the definition of “dwelling-house” were omitted.

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(5) It is hereby declared that this Part applies as between the parties to a marriage even though either of them is, or has at any time during the marriage been, married to more than one person.

Textual Amendments

- F11** S. 63(1): definition of "adoption order" substituted (30.12.2005) by 2002 c. 38, ss. 139(1), 148(1), Sch. 3 para. 88(a) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F12** Word in s. 63(1) inserted (5.12.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 41(2)**; S.I. 2005/3196, **art. 2(c)**
- F13** S. 63(1): definition of "home rights" inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 14(1)(2)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F14** S. 63(1): definition of "matrimonial home rights" repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 261(4), 263, Sch. 9 para. 14(1)(3), **Sch. 30**; S.I. 2005/3175, **art. 2(1)(6)**, Sch. 1
- F15** S. 63(1): words in the definition of "relative" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 14(1)(4)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F16** Words in s. 63(1) substituted (5.12.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 41(3)(a)**; S.I. 2005/3196, **art. 2(c)**
- F17** S. 63(1): words in paragraph (b) in the definition of "relative" substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 14(1)(4)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F18** Words in s. 63(1) substituted (5.12.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 41(3)(b)**; S.I. 2005/3196, **art. 2(c)**
- F19** S. 63(1): words in the definition of "relative" inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 14(1)(4)(c)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F20** S. 63(2)(ba) inserted (25.11.2008) by Forced Marriage (Civil Protection) Act 2007 (c. 20), ss. 3(1), 4(2)(4), **Sch. 2 para. 3(2)**; S.I. 2008/2779, **art. 2(b)**
- F21** S. 63(2)(i) inserted (30.12.2005) by 2002 c. 38, ss. 139(1), 148(1), Sch. 3 para. 88(b) (with Sch. 4 paras. 6-8); S.I. 2005/2213, **art. 2(o)**
- F22** S. 63(2)(j) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 13(1)(5)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Marginal Citations

- M3** 1925 c. 20.
M4 1989 c. 41.
M5 1973 c. 18.
M6 1976 c. 36.
M7 1978 c. 22.
M8 1984 c. 42.
M9 1989 c. 41.
M10 1990 c. 37.

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