Changes to legislation: *Family Law Act 1996, Paragraph 3 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 6

AMENDMENTS OF CHILDREN ACT 1989

3 After section 44 of the Children Act 1989 insert—

"**44A Power to include exclusion requirement in emergency protection order.**

(1) Where—

(a) on being satisfied as mentioned in section 44(1)(a), (b) or (c), the court makes an emergency protection order with respect to a child, and

(b) the conditions mentioned in subsection (2) are satisfied,

the court may include an exclusion requirement in the emergency protection order.

(2) The conditions are—

(a) that there is reasonable cause to believe that, if a person ("the relevant person") is excluded from a dwelling-house in which the child lives, then—

(i) in the case of an order made on the ground mentioned in section 44(1)(a), the child will not be likely to suffer significant harm, even though the child is not removed as mentioned in section 44(1)(a)(i) or does not remain as mentioned in section 44(1)(a)(ii), or

(ii) in the case of an order made on the ground mentioned in paragraph (b) or (c) of section 44(1), the enquiries referred to in that paragraph will cease to be frustrated, and

(b) that another person living in the dwelling-house (whether a parent of the child or some other person)—

(i) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him, and

(ii) consents to the inclusion of the exclusion requirement.

(3) For the purposes of this section an exclusion requirement is any one or more of the following—

(a) a provision requiring the relevant person to leave a dwelling-house in which he is living with the child,

(b) a provision prohibiting the relevant person from entering a dwelling-house in which the child lives, and

(c) a provision excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.

(4) The court may provide that the exclusion requirement is to have effect for a shorter period than the other provisions of the order.

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(5) Where the court makes an emergency protection order containing an exclusion requirement, the court may attach a power of arrest to the exclusion requirement.

(6) Where the court attaches a power of arrest to an exclusion requirement of an emergency protection order, it may provide that the power of arrest is to have effect for a shorter period than the exclusion requirement.

(7) Any period specified for the purposes of subsection (4) or (6) may be extended by the court (on one or more occasions) on an application to vary or discharge the emergency protection order.

(8) Where a power of arrest is attached to an exclusion requirement of an emergency protection order by virtue of subsection (5), a constable may arrest without warrant any person whom he has reasonable cause to believe to be in breach of the requirement.

(9) Sections 47(7), (11) and (12) and 48 of, and Schedule 5 to, the Family Law Act 1996 shall have effect in relation to a person arrested under subsection (8) of this section as they have effect in relation to a person arrested under section 47(6) of that Act.

(10) If, while an emergency protection order containing an exclusion requirement is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours, the order shall cease to have effect in so far as it imposes the exclusion requirement.

44B Undertakings relating to emergency protection orders.

(1) In any case where the court has power to include an exclusion requirement in an emergency protection order, the court may accept an undertaking from the relevant person.

(2) No power of arrest may be attached to any undertaking given under subsection (1).

(3) An undertaking given to a court under subsection (1)—

(a) shall be enforceable as if it were an order of the court, and

(b) shall cease to have effect if, while it is in force, the applicant has removed the child from the dwelling-house from which the relevant person is excluded to other accommodation for a continuous period of more than 24 hours.

(4) This section has effect without prejudice to the powers of the High Court and county court apart from this section.

(5) In this section “exclusion requirement” and “relevant person” have the same meaning as in section 44A.”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 63(2)(k) inserted by 2021 c. 17 s. 52(2)