



Family Law Act 1996

1996 CHAPTER 27

PART IV

FAMILY HOMES AND DOMESTIC VIOLENCE

Further provisions relating to occupation and non-molestation orders

46 Undertakings.

- (1) In any case where the court has power to make an occupation order or non-molestation order, the court may accept an undertaking from any party to the proceedings.
- (2) No power of arrest may be attached to any undertaking given under subsection (1).
- (3) The court shall not accept an undertaking under subsection (1) [^{F1}instead of making an occupation order] in any case where apart from this section a power of arrest would be attached to the order.
- [^{F2}(3A) The court shall not accept an undertaking under subsection (1) instead of making a non-molestation order in any case where it appears to the court that—
 - (a) the respondent has used or threatened violence against the applicant or a relevant child; and
 - (b) for the protection of the applicant or child it is necessary to make a non-molestation order so that any breach may be punishable under section 42A.]
 - (4) An undertaking given to a court under subsection (1) is enforceable as if [^{F3}the court had made an occupation order or a non-molestation order in terms corresponding to those of the undertaking].
 - (5) This section has effect without prejudice to the powers of the High Court and [^{F4}the family court] apart from this section.

Changes to legislation: Family Law Act 1996, Section 46 is up to date with all changes known to be in force on or before 09 April 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

Textual Amendments

- F1** Words in s. 46(3) inserted (1.7.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, **Sch. 10 para. 37(2)** (with Sch. 12 para. 1(11)); S.I. 2007/1845, **art. 2(c)** (with art. 3)
- F2** S. 46(3A) inserted (1.7.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, **Sch. 10 para. 37(3)** (with Sch. 12 para. 1(11)); S.I. 2007/1845, **art. 2(c)** (with art. 3)
- F3** Words in s. 46(4) substituted (1.7.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, **Sch. 10 para. 37(4)** (with Sch. 12 para. 1(11)); S.I. 2007/1845, **art. 2(c)** (with art. 3)
- F4** Words in s. 46(5) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 131**; S.I. 2014/954, **art. 2(e)** (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Changes to legislation:

Family Law Act 1996, Section 46 is up to date with all changes known to be in force on or before 09 April 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.

[View outstanding changes](#)

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\(2\)](#)