



Family Law Act 1996

1996 CHAPTER 27

PART IV

FAMILY HOMES AND DOMESTIC VIOLENCE

Non-molestation orders

42 Non-molestation orders.

- (1) In this Part a “non-molestation order” means an order containing either or both of the following provisions—
 - (a) provision prohibiting a person (“the respondent”) from molesting another person who is associated with the respondent;
 - (b) provision prohibiting the respondent from molesting a relevant child.
- (2) The court may make a non-molestation order—
 - (a) if an application for the order has been made (whether in other family proceedings or without any other family proceedings being instituted) by a person who is associated with the respondent; or
 - (b) if in any family proceedings to which the respondent is a party the court considers that the order should be made for the benefit of any other party to the proceedings or any relevant child even though no such application has been made.
- (3) In subsection (2) “family proceedings” includes proceedings in which the court has made an emergency protection order under section 44 of the ^{M1}Children Act 1989 which includes an exclusion requirement (as defined in section 44A(3) of that Act).
- (4) Where an agreement to marry is terminated, no application under subsection (2)(a) may be made by virtue of section 62(3)(e) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.

[^{F1}(4A) A court considering whether to make an occupation order shall also consider whether to exercise the power conferred by subsection (2)(b).

Changes to legislation: Family Law Act 1996, Section 42 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

(4B) In this Part “the applicant”, in relation to a non-molestation order, includes (where the context permits) the person for whose benefit such an order would be or is made in exercise of the power conferred by subsection (2)(b).]

[^{F2}(4ZA) If a civil partnership agreement (as defined by section 73 of the Civil Partnership Act 2004) is terminated, no application under this section may be made by virtue of section 62(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.]

- (5) In deciding whether to exercise its powers under this section and, if so, in what manner, the court shall have regard to all the circumstances including the need to secure the health, safety and well-being—
- (a) of the applicant ^{F3}. . . ; and
 - (b) of any relevant child.
- (6) A non-molestation order may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.
- (7) A non-molestation order may be made for a specified period or until further order.
- (8) A non-molestation order which is made in other family proceedings ceases to have effect if those proceedings are withdrawn or dismissed.

Textual Amendments

- F1** S. 42(4A)(4B) inserted (1.7.2007) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1), 60, **Sch. 10 para. 36(2)**; S.I. 2007/1845, **art. 2(c)** (with art. 3)
- F2** S. 42(4ZA) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 9**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F3** Words in s. 42(5)(a) repealed (1.7.2007) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(1)(2), 60, Sch. 10 para. 36(3), **Sch. 11**; S.I. 2007/1845, **art. 2(c)(d)** (with art. 3)

Marginal Citations

- M1** 1989 c. 41.

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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\(2\)](#)