

FORCED MARRIAGE (CIVIL PROTECTION) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1 – Protection against forced marriage: Northern Ireland

Part 3 – Jurisdiction and procedure

Jurisdiction of courts

99. *Paragraph 8* makes comparable provision to section 63M in section 1. It provides that the High Court and county courts may issue forced marriage protection orders. *Sub-paragraph (3)* also modifies Article 34(3) to (10) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 to apply the allocation of proceedings provisions.

Power to extend jurisdiction to courts of summary jurisdiction

100. *Paragraph 9* deals with extension of jurisdiction to courts of summary jurisdiction. *Sub-paragraph (1)* provides a power for the Lord Chancellor to extend jurisdiction for dealing with cases of forced marriage to courts of summary jurisdiction, following consultation with the Lord Chief Justice.
101. *Sub-paragraph (2)* provides that an order made under sub-paragraph (1) may in particular make provision which corresponds to existing legislation in Northern Ireland relating to courts of summary jurisdiction for dealing with domestic violence. This provision will help to ensure that domestic violence cases and forced marriage cases are dealt with consistently in the courts of summary jurisdiction, if the forced marriage jurisdiction is extended to those courts.
102. *Sub-paragraph (3)* provides that any order to extend jurisdiction may amend, repeal, revoke or modify a provision made by or under the Act or any other legislation.
103. *Sub-paragraph (5)* provides that the Lord Chief Justice may nominate a judicial office holder or a Lord Justice of Appeal to exercise his powers under this paragraph.

Contempt proceedings

104. *Paragraph 10* replicates section 63O in section 1.

Appeals from county courts

105. *Paragraph 11* makes provision for appeals from county courts. *Sub-paragraph (1)* provides that where the county court has made or refused to make an order an appeal may be made to the High Court.

*These notes refer to the Forced Marriage (Civil Protection)
Act 2007 (c.20) which received Royal Assent on 26 July 2007*

106. However *sub-paragraph (2)* provides that an appeal does not lie to the High Court where the county court was a divorce county court making an order under the Northern Ireland divorce legislation in the same proceedings as a forced marriage protection order hearing. *Sub-paragraph (3)* provides that rules of court must be made to provide for appeals to the Court of Appeal against a decision made by the divorce county court.
107. *Sub-paragraphs (5) and (6)* provide that when the High Court is hearing an appeal it may make any orders necessary to give effect to the determination of that appeal. The court may also make such incidental or consequential orders as are just.
108. *Sub-paragraph (7)* provides that any order made by the High Court on appeal should be treated for the purposes of enforcement, variation, revival or discharge, as an order made by the county court from which the appeal was brought.

Appeals: transfers and proposed transfers

109. *Paragraph 12* provides that the Lord Chancellor, following consultation with the Lord Chief Justice, may make provision setting out the circumstances in which an appeal can be made about the transfer of a case.
110. *Sub-paragraph (3)* provides that the Lord Chief Justice can nominate certain other persons to exercise his functions in this regard.