



Family Law Act 1996

1996 CHAPTER 27

PART IV

FAMILY HOMES AND DOMESTIC VIOLENCE

Further provisions relating to occupation and non-molestation orders

45 Ex parte orders.

- (1) The court may, in any case where it considers that it is just and convenient to do so, make an occupation order or a non-molestation order even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court.
- (2) In determining whether to exercise its powers under subsection (1), the court shall have regard to all the circumstances including—
 - (a) any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately;
 - (b) whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately; and
 - (c) whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay [^{F1}involved] in effecting substituted service.
- (3) If the court makes an order by virtue of subsection (1) it must afford the respondent an opportunity to make representations relating to the order as soon as just and convenient at a full hearing.
- (4) If, at a full hearing, the court makes an occupation order (“the full order”), then—
 - (a) for the purposes of calculating the maximum period for which the full order may be made to have effect, the relevant section is to apply as if the period for which the full order will have effect began on the date on which the initial order first had effect; and

Changes to legislation: Family Law Act 1996, Section 45 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

(b) the provisions of section 36(10) or 38(6) as to the extension of orders are to apply as if the full order and the initial order were a single order.

(5) In this section—

“full hearing” means a hearing of which notice has been given to all the parties in accordance with rules of court;

“initial order” means an occupation order made by virtue of subsection (1);
and

“relevant section” means section 33(10), 35(10), 36(10), 37(5) or 38(6).

Textual Amendments

F1 Word in s. 45(2)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 130](#); [S.I. 2014/954](#), art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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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\(2\)](#)