



Family Law Act 1996

1996 CHAPTER 27

PART IV

FAMILY HOMES AND DOMESTIC VIOLENCE

Further provisions relating to occupation and non-molestation orders

47 Arrest for breach of order

- (1) In this section “a relevant order” means an occupation order or a non-molestation order.
- (2) If—
 - (a) the court makes a relevant order; and
 - (b) it appears to the court that the respondent has used or threatened violence against the applicant or a relevant child,it shall attach a power of arrest to one or more provisions of the order unless satisfied that in all the circumstances of the case the applicant or child will be adequately protected without such a power of arrest.
- (3) Subsection (2) does not apply in any case where the relevant order is made by virtue of section 45(1), but in such a case the court may attach a power of arrest to one or more provisions of the order if it appears to it—
 - (a) that the respondent has used or threatened violence against the applicant or a relevant child; and
 - (b) that there is a risk of significant harm to the applicant or child, attributable to conduct of the respondent, if the power of arrest is not attached to those provisions immediately.
- (4) If, by virtue of subsection (3), the court attaches a power of arrest to any provisions of a relevant order, it may provide that the power of arrest is to have effect for a shorter period than the other provisions of the order.
- (5) Any period specified for the purposes of subsection (4) may be extended by the court (on one or more occasions) on an application to vary or discharge the relevant order.

Status: This is the original version (as it was originally enacted).

- (6) If, by virtue of subsection (2) or (3), a power of arrest is attached to certain provisions of an order, a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of any such provision.
- (7) If a power of arrest is attached under subsection (2) or (3) to certain provisions of the order and the respondent is arrested under subsection (6)—
- (a) he must be brought before the relevant judicial authority within the period of 24 hours beginning at the time of his arrest; and
 - (b) if the matter is not then disposed of forthwith, the relevant judicial authority before whom he is brought may remand him.
- In reckoning for the purposes of this subsection any period of 24 hours, no account is to be taken of Christmas Day, Good Friday or any Sunday.
- (8) If the court has made a relevant order but—
- (a) has not attached a power of arrest under subsection (2) or (3) to any provisions of the order, or
 - (b) has attached that power only to certain provisions of the order,
- then, if at any time the applicant considers that the respondent has failed to comply with the order, he may apply to the relevant judicial authority for the issue of a warrant for the arrest of the respondent.
- (9) The relevant judicial authority shall not issue a warrant on an application under subsection (8) unless—
- (a) the application is substantiated on oath; and
 - (b) the relevant judicial authority has reasonable grounds for believing that the respondent has failed to comply with the order.
- (10) If a person is brought before a court by virtue of a warrant issued under subsection (9) and the court does not dispose of the matter forthwith, the court may remand him.
- (11) Schedule 5 (which makes provision corresponding to that applying in magistrates' courts in civil cases under sections 128 and 129 of the Magistrates' Courts Act 1980) has effect in relation to the powers of the High Court and a county court to remand a person by virtue of this section.
- (12) If a person remanded under this section is granted bail (whether in the High Court or a county court under Schedule 5 or in a magistrates' court under section 128 or 129 of the Magistrates' Courts Act 1980), he may be required by the relevant judicial authority to comply, before release on bail or later, with such requirements as appear to that authority to be necessary to secure that he does not interfere with witnesses or otherwise obstruct the course of justice.