



RIGHTS OF WOMEN

A Short Briefing Note on the Forced Marriage (Civil Protection) Act 2007

On the 26 July 2007 the Forced Marriage (Civil Protection) Act 2007¹ (FMA) received royal assent. For a history of the FMA please contact the Odysseus Trust or see the Parliament website. For details of Rights of Women's involvement in the FMA and legal reforms related to forced marriage please see our policy consultations and editions of our newsletter *Focus on Women*.²

The following briefing outlines the law contained in the FMA, but the FMA is not yet law because it has not entered into force. It will enter into force when the Lord Chancellor makes an order to that effect. However, the Lord Chancellor has discretion to implement either the whole of the FMA or parts of it. The Government had not yet indicated a date or timetable for implementation. The Ministry of Justice is responsible for implementing the Act, and should be contacted for further information about its implementation.³

The FMA will insert new provisions into the Family Law Act 1996 (FLA) to create a new **forced marriage protection order** (FMPO). The High Court or a county court can make a FMPO to protect a woman from being forced into a marriage or from any attempt to be forced into a marriage or to protect a person who has already been forced into a marriage. Force is defined to include (but not limited to) coercion by threats or other psychological means. The forced marriage can be any marriage and can include certain religious marriages that are not legally recognised in England and Wales. What a court can order as a FMPO can be very wide. A FMPO can contain any prohibitions, restrictions or requirements and other terms that the court considers appropriate. A FMPO can be made by the court because an application has been made or, in certain circumstances the court can make an order without an application being made. For example, if a woman lives with her uncle who is trying to force her into marriage and she has gone to court to get an occupation order under the FLA to exclude him from the house, the court can decide to make a FMPO even if she has not applied for one. An application can be made by a woman, a third party or another person who is given permission (leave) by the court to make an application. This is very different to other orders under the FLA, such as occupation orders or non-molestation orders, as only the person to be protected can apply for these

¹ See www.publications.parliament.uk/pa/pabills/200607/forced_marriage_civil_protection.htm or www.odysseustrust.org

² Both available on our website www.rightsofwomen.org.uk

³ See www.justice.gov.uk/

orders. Unlike other orders in the FLA a FMPO is not restricted to associated persons. A FMPO can be able to be made against a very wide range of people, including a person:

- who is in England and Wales;
- who is outside England and Wales as well as (or instead of) conduct of the person within England and Wales;
- who is or may become involved in other respects as well as (or instead of) the person who is trying to or has forced another into marriage; or
- other persons who are, or may become, involved in other respects of any kind.

Other aspects of a FMPO are similar to occupation orders and non-molestation orders under the FLA, such as making an application without notice and accepting undertakings or making a power of arrest in certain circumstances. Like other orders under the FLA an application can be made to the court for a warrant to have the respondent arrested if they breach the order. However, unlike other orders under the FLA, an application for a warrant can be made by an “interested party”. An interested party can be the person being protected by the order; the person who applied for the order; or any other person who has the leave (permission) of the court (section 63J FLA). This means an interested party may be someone completely different to the person being protected or the person who applied for the order.

The Act does not refer to legal aid. However, when it was going through the House of Commons, Bridget Prentice, the Minister responsible for legal services in the Ministry of Justice, said that “the intention is that the court fees and eligibility for legal aid will follow the models that are in place in relation to applications for non-molestation and occupation orders under part 4 of the Family Law Act 1996. That means that those on low incomes will be exempt from paying a court fee on the issuing of their applications.”⁴

For further information on the FMA please contact the Odysseus Trust or the Ministry of Justice. You can keep up to date with Rights of Women’s views on the FMA and any future developments in new editions of *Focus on Women* and/or on our website.

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⁴ House of Commons Debate Forced Marriage (Civil Protection) Bill [Lords] 10 July 2007 Hansard column 1384. See www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070710/debtext/70710-0013.htm#07071064000060