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**Changes to legislation:** Domestic Violence, Crime and Victims Act 2004, Cross Heading: Family Law Act 1996 (c. 27) is up to date with all changes known to be in force on or before 21 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](#)

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## SCHEDULES

### SCHEDULE 10

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Family Law Act 1996 (c. 27)*

- 34 (1) Section 36 of the Family Law Act 1996 (one cohabitant or former cohabitant with no existing right to occupy) is amended as follows.
- (2) In subsection (1)(c), for the words from “live together as” to the end substitute “cohabit or a home in which they at any time cohabited or intended to cohabit”.
- (3) In subsection (6)(f), for “lived together as husband and wife” substitute “cohabited”.
- 35 In section 38 of that Act (neither cohabitant or former cohabitant entitled to occupy), in subsection (1)(a), for “live or lived together as husband and wife” substitute “cohabit or cohabited”.
- 36 (1) Section 42 of that Act (non-molestation orders) is amended as follows.
- (2) After subsection (4) insert—
- “(4A) A court considering whether to make an occupation order shall also consider whether to exercise the power conferred by subsection (2)(b).
- (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).”
- (3) In subsection (5)(a) omit the words from “or” to “made”.
- 37 (1) Section 46 of that Act (undertakings) is amended as follows.
- (2) In subsection (3), after “under subsection (1)” insert “ instead of making an occupation order ”.
- (3) After that subsection insert—
- “(3A) The court shall not accept an undertaking under subsection (1) instead of making a non-molestation order in any case where it appears to the court that—
- (a) the respondent has used or threatened violence against the applicant or a relevant child; and
- (b) for the protection of the applicant or child it is necessary to make a non-molestation order so that any breach may be punishable under section 42A.”
- (4) In subsection (4), for “it were an order of the court” substitute “ the court had made an occupation order or a non-molestation order in terms corresponding to those of the undertaking ”.

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- 38 (1) Section 47 of that Act (arrest for breach of occupation order or non-molestation order) is amended as follows.
- (2) Omit subsection (1).
- (3) In subsections (2) and (4), for “a relevant order” substitute “an occupation order”.
- (4) In subsections (3) and (5), for “the relevant order” substitute “the occupation order”.
- (5) In subsection (8), for the words up to the end of paragraph (b) substitute—
- “If the court—
- (a) has made a non-molestation order, or
- (b) has made an occupation order but has not attached a power of arrest under subsection (2) or (3) to any provision of the order, or has attached that power only to certain provisions of the order,”.
- 39 In section 49 of that Act (variation and discharge of orders), in subsection (4) omit “or non-molestation order”.
- 40 In section 62 of that Act (definitions), in subsection (1)(b), for “ “former cohabitants” is to be read accordingly, but” substitute “ “cohabit” and “former cohabitants” are to be read accordingly, but the latter expression ”.
- 41 (1) In section 63 of that Act (interpretation of Part 4), subsection (1) is amended as follows.
- (2) At the beginning of the definition of “cohabitant” and “former cohabitant” insert
- , ”.
- (3) In the definition of “relative”—
- (a) for “or nephew” in paragraph (b) substitute “, nephew or first cousin ”;
- (b) for “is living or has lived with another person as husband and wife” substitute “is cohabiting or has cohabited with another person ”.
- 42 (1) Schedule 7 to that Act (transfer of certain tenancies on divorce etc or on separation of cohabitants) is amended as follows.
- (2) In paragraph 3(2), for “to live together as husband and wife” substitute “to cohabit”.
- (3) In paragraph 4(b), for “lived together as husband and wife” substitute “cohabited”.

**Changes to legislation:**

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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):

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)