



# Matrimonial Homes (Family Protection) (Scotland) Act 1981

## 1981 CHAPTER 59

### *Matrimonial interdicts*

#### **14 Interdict competent where spouses live together.**

- (1) It shall not be incompetent for the court to entertain an application by a spouse for a matrimonial interdict by reason only that the spouses are living together as man and wife.
- (2) In this section <sup>F1</sup>... of this Act—  
“matrimonial interdict” means an interdict including an interim interdict which—
  - (a) restrains or prohibits any conduct of one spouse towards the other spouse or a child of the family, or
  - [<sup>F2</sup>(b) subject to subsection (3), prohibits a spouse from entering or remaining in—
    - (i) a matrimonial home;
    - (ii) any other residence occupied by the applicant spouse;
    - (iii) any place of work of the applicant spouse;
    - (iv) any school attended by a child in the permanent or temporary care of the applicant spouse.]
- [<sup>F3</sup>(3) Subsection (4) applies if in relation to a matrimonial home the non-applicant spouse—
  - (a) is an entitled spouse; or
  - (b) has occupancy rights.
- (4) Except where subsection (5) applies, the court may not grant a matrimonial interdict prohibiting the non-applicant spouse from entering or remaining in the matrimonial home.
- (5) This subsection applies if—
  - (a) the interdict is ancillary to an exclusion order; or
  - (b) by virtue of section 1(3), the court refuses leave to exercise occupancy rights.

**Changes to legislation:** *Matrimonial Homes (Family Protection) (Scotland) Act 1981, Cross Heading: Matrimonial interdicts is up to date with all changes known to be in force on or before 06 August 2023. 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*

(6) In this section <sup>F4</sup>..., “ applicant spouse ” means the spouse who has applied for the interdict; and “ non-applicant spouse ” shall be construed accordingly. ]

#### Textual Amendments

- F1** Words in s. 14(2) repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 3**; [S.S.I. 2006/212](#), art. 2
- F2** S. 14(2)(b) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 10(2)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F3** S. 14(3)-(6) added (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), **ss. 10(3)**, 46(2); [S.S.I. 2006/212](#), art. 2
- F4** Words in s. 14(6) repealed (30.6.2006) by [Family Law \(Scotland\) Act 2006 \(Consequential Modifications\) Order 2006 \(S.S.I. 2006/384\)](#), arts. 1, 6

#### <sup>F5</sup>15 Attachment of powers of arrest to matrimonial interdicts.

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#### Textual Amendments

- F5** Ss. 15-17 repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 3**; [S.S.I. 2006/212](#), art. 2 (with art. 13); Word in s. 17(2) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 2 para. 4(3)**; [S.S.I. 2006/212](#), art. 2

#### <sup>F5</sup>16 Police powers after arrest.

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#### Textual Amendments

- F5** Ss. 15-17 repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 3**; [S.S.I. 2006/212](#), art. 2 (with art. 13); Word in s. 17(2) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 2 para. 4(3)**; [S.S.I. 2006/212](#), art. 2

#### <sup>F5</sup>17 Procedure after arrest.

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#### Textual Amendments

- F5** Ss. 15-17 repealed (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 3**; [S.S.I. 2006/212](#), art. 2 (with art. 13); Word in s. 17(2) substituted (4.5.2006) by [Family Law \(Scotland\) Act 2006 \(asp 2\)](#), s. 46(2), **Sch. 2 para. 4(3)**; [S.S.I. 2006/212](#), art. 2

#### Modifications etc. (not altering text)

- C1** S. 17 saving for effect of 2006 asp 2 sch. 3 (25.1.2018) by [The Criminal Justice \(Scotland\) Act 2016 \(Modification of Part 1 and Ancillary Provision\) Regulations 2017 \(S.S.I. 2017/453\)](#), reg. 1, **sch. para. 1**

**Changes to legislation:**

Matrimonial Homes (Family Protection) (Scotland) Act 1981, Cross Heading: Matrimonial interdicts is up to date with all changes known to be in force on or before 06 August 2023. 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.

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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. 2(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 3(9) inserted by [2023 asp 3 s. 56\(4\)](#)
- s. 8(2C) inserted by [2023 asp 3 s. 56\(7\)](#)