

THE INTERNATIONAL FAMILY LAW GROUP

iGuides to family law and practice

FORCED MARRIAGES

INTRODUCTION

The UK government has acknowledged that there needed to be a law to afford victims of forced marriages better protection. It was acknowledged that forced marriages was becoming a growing problem and therefore in 2005 the government's Forced Marriages Unit was created and in 2007 legislation was passed.

The terms forced marriages and arranged marriages have in the past been wrongly used interchangeably. It is important to distinguish between them. A forced marriage takes place without the consent of one or both of the parties to the marriage. An arranged marriage takes place with the consent of both parties and the parties are simply assisted in meeting each other through friends and family.

THE FORCED MARRIAGE (CIVIL PROTECTION) ACT 2007 ("FMA 2007")

The Forced Marriage (Civil Protection) Act 2007 ("FMA 2007") came into force on 25 November 2008. The Act only deals with civil remedies. No specific criminal offence of Forced Marriage was introduced as it was recognised that this might prevent victims from coming forward for assistance. There are already other criminal offences that could deal with the acts that are committed in connection with forced marriages.

WHAT IS A FORCED MARRIAGE?

A forced marriage is defined in the FMA 2007 as a marriage which one person is forced to enter into by another against their free will. It does not matter whether the force is exerted by the person who the victim is getting married to or another source. Force can include but is not limited to coerce or threats by psychological means.

LEGAL REMEDIES

The Court has a wide discretion to make orders to protect an individual from a forced marriage. A Forced Marriages Protection Order (FMPO) can be obtained and the Court can:

- Prevent a forced marriage from taking place
- Order passports to be seized
- stop intimidation and violence
- Order disclosure of the whereabouts of individuals believed to be forced into a marriage
- Prevent an individual being taken abroad

WHO CAN APPLY

The victims can apply themselves. However it may not be possible for a victim to apply given the nature of a forced marriage. Therefore there is provision for others to apply for protection on behalf of the victim. Some third parties can apply without any permission from the Court, including:

- Social Workers
- The Police
- Education Professionals
- Health Professionals

Others can still apply on behalf of the victim but they have to apply to the Court for permission.

WHERE TO APPLY

Only a small number of family courts can initially hear applications under the FMA 2007, mainly in areas which the Forced Marriages Unit has identified forced marriages are more likely to occur. 14 Courts have been identified at this stage.

WHO CAN A FORCED MARRIAGE PROTECTION ORDER (FMPO) BE AGAINST

A FMPO can relate to the conduct of a person both within the jurisdiction of England and Wales and abroad. A FMPO can relate to the conduct of more than one person. This is important since often a forced marriage may take place abroad with the assistance of, eg extended family members who do not live within this country.

CONSEQUENCES OF BREACH OF A FORCED MARRIAGE PROTECTION ORDER (FMPO)

The Court will deal with a breach of a FMPO as contempt of Court and could send a person to prison for up to two years.

OTHER PROVISIONS FOR CHILDREN WHO MAY BE VICTIMS

- Police protection
- Local Authorities duties to protect
- Emergency Protection Order
- Care and Supervision Orders (Only under 17's)
- Wardship
- S.8 Children Act 1989 Orders

FORCED MARRIAGE UNIT

The Forced Marriage Unit is a government initiative designed to help the victims of forced marriage. They offer confidential advice to those who have been forced into overseas marriage or fear that they might be. They also talk to those who are concerned for their friends and relatives. The contact details are <http://www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/>, 0207 008 0151, fmu@fco.gov.uk

This iGuide is for information only and a specialist legal advice should always be taken, often urgently. For further details contact The International Family Law Group at 020 3178 5668 and www.iflg.uk.com
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