
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 88

**The Family Proceedings (Amendment)
Rules (Northern Ireland) 1999**

Family Homes and Domestic Violence (Northern Ireland) Order 1998(1)

7. After rule 3.14 there shall be inserted the following—

“Applications for an occupation order or a non-molestation order under the Order of 1998

3.15.—(1) Subject to rules 3.16 and 3.17, on an application for an occupation order or a non-molestation order under the Order of 1998, the applicant shall—

- (a) file the documents referred to in paragraph (2) (which documents shall together be called “the application”), together with sufficient copies for one to be served on each respondent—
 - (i) in relation to an application to the High Court, in the Office of Care and Protection; or
 - (ii) in relation to an application to a county court in the county court office;
- (b) arrange for the copy of the application, together with Form F3 to be served on respondent personally not less than 2 days before the date on which the application will be heard; and
- (c) file a statement in Form F4 in the Office of Care and Protection or, as the case may be, the county court office after the application has been served.

(2) The documents to be filed under paragraph 1(a) are—

- (a) Form F2; and
- (b) a supporting statement which is signed by the applicant and sworn to be true.

(3) On receipt of the documents referred to in paragraph (1)(a), the proper officer or chief clerk shall—

- (a) fix the date for the hearing, allowing sufficient time for the applicant to comply with paragraph 1(b);
- (b) endorse the date so fixed on Form F3; and
- (c) return forthwith to the applicant the copies of the application, together with Form F3.

(4) The court may abridge the period specified in paragraph (1)(b).

(5) Rule 6.3 shall not apply to an application for an occupation order or a non-molestation order under the Order of 1998.

(6) Rule 2.64(4) to (7) (investigation by Master of an application for ancillary relief) shall apply, with the necessary modifications, to an application for an occupation order under Article 11, 13 or 14 of the Order of 1998 as they apply to an application for ancillary relief.

Application for leave to commence proceedings under the Order of 1998

3.16.—(1) Where the leave of the court is required to bring proceedings under the Order of 1998, the person seeking leave shall file in the Office of Care and Protection a draft of the application (being the documents referred to in rule 3.15(2)) for the making of which leave is sought, together with sufficient copies for one to be served on each respondent.

(2) On considering a request for leave filed under paragraph (1) the court shall—

- (a) grant the request, whereupon the proper officer shall inform the person making the request of the decision, or
- (b) direct that a date be fixed for the hearing of the request, whereupon the proper officer shall fix such a date and give such notice as the court directs to the person making the request and to such other persons as the court requires to be notified of the date so fixed.

(3) Where notice is required to be given under paragraph (2) it shall, with the necessary modifications, be given in Form F3.

(4) Where leave is granted to bring proceedings under the Order of 1998, the application shall proceed in accordance with rule 3.15 but paragraph (1)(a) of that rule shall not apply.

Ex parte applications under the Order of 1998

3.17.—(1) An application for a non-molestation order or an occupation order under the Order of 1998 may, with the leave of the court, be made ex parte, and in which case—

- (a) rule 3.15 shall not apply; and
- (b) the evidence in support of the application shall include the reasons why the application is made ex parte.

(2) Where the leave of the court is granted, the application may be made orally and the applicant shall, within 48 hours of the making of the application, or as directed by the court—

- (a) file in the Office of Care and Protection or, as the case may be, the county court office, a written copy of the application in Form F2 together with a supporting statement which is signed by the applicant and sworn to be true; and
- (b) arrange for a copy of the application in Form F2 together with the supporting statement to be served on the respondent personally.

(3) Upon complying with paragraph (2)(b) the applicant shall file a statement in Form F4 in the Office of Care and Protection or, as the case may be, the county court office.

Notification of application for an occupation order under the Order of 1998

3.18. A copy of an application for an occupation order under Article 11, 13 or 14 of the Order of 1998 shall be served by the applicant by first-class post on the mortgagee or, as the case may be, the landlord of the dwelling house in question, with a notice in Form F5 informing him of his right to make representations in writing or at any hearing.

Hearing of applications under the Order of 1998

3.19.—(1) Unless the court otherwise directs, an application for an occupation order or a non-molestation order under the Order of 1998 shall be heard by a judge in chambers.

(2) The following forms shall be used in connection with hearings of such applications—

(a) a record of the hearing shall be made in Form F6, and

(b) any order made on the hearing shall be issued in Form F7.

(3) The court may direct that a further hearing be held in order to consider any representations made by a mortgagee or a landlord.

Notification of occupation order or non-molestation order

3.20.—(1) Where an occupation order or non-molestation order is made under the Order of 1998, the applicant shall arrange for a copy of the order to be served by the applicant on the respondent personally.

(2) Where the application is for an occupation order under Article 11, 13 or 14 of the Order of 1998, the applicant shall arrange for a copy of any order made on the application shall be served by the applicant by first-class post on the mortgagee or, as the case may be, the landlord of the dwelling house in question.

Variation, extension or discharge of orders made under the Order of 1998

3.21. An application to vary, extend or discharge an occupation order or non-molestation order made under the Order of 1998 shall be made in Form F8 and rules 3.15 and 3.17 to 3.20 shall apply, with the necessary modifications, to such an application.

Transfer of proceedings under the Order of 1998

3.22.—(1) Where proceedings under the Order of 1998 are pending, the court shall consider (on the application, in writing, of either party or of its own motion) whether to exercise its powers to transfer the hearing of that application to another court and shall make an order for transfer in Form F9 if it seems necessary or expedient to do so.

(2) Where proceedings have been transferred to a county court in accordance with Article 7 of the Allocation Order of 1999, that court shall consider whether to transfer those proceedings to the High Court in accordance with Article 11 of that Order and either—

(a) determine that an order for such transfer need not be made;

(b) make such an order for transfer;

(c) order that a date be fixed for the hearing of the question whether such an order for transfer should be made, whereupon the chief clerk shall give such notice to the parties as the court directs of the date so fixed; or

(d) invite the parties to make written representations within a specified period as to whether such an order should be made and, upon receipt of the representations, the court shall act in accordance with sub-paragraphs (a), (b) or (c).

(3) Where proceedings are transferred to the High Court any relevant documentation shall be sent by the chief clerk to the Office of Care and Protection.

(4) The proper officer shall notify the parties of an order transferring proceedings from the High Court in accordance with Article 12 or 13 of the Allocation Order of 1999 and a copy of the order shall be sent to the court to which the proceedings are transferred.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5) The chief clerk shall notify the parties of an order transferring proceedings in accordance with Article 9 or 10 of the Allocation Order of 1999 and a copy of the order shall be sent to the court to which the proceedings are transferred.

(6) An order under this rule transferring proceedings in accordance with the Allocation Order of 1999 shall be served on the parties by the proper officer or chief clerk as the case may be.

Enforcement of orders made under the Order of 1998

3.23. CCR Order 57, rule 7 shall apply to non-molestation orders and occupation orders as if for paragraph (1) of that rule there were substituted the following—

“(1) Where an occupation order or non-molestation order made under the Family Homes and Domestic Violence (Northern Ireland) Order 1998⁽²⁾, is enforceable by committal order under rule 5, the judge or the district judge may, on the application of the person entitled to enforce the order, direct the chief clerk to issue a copy of the order and any order so issued shall be served on the respondent personally.”

(2) S.I. 1998/1071 (N.I. 6)