
STATUTORY INSTRUMENTS

1997 No. 1893 (L. 29)
COUNTY COURTS
FAMILY PROCEEDINGS
SUPREME COURT OF ENGLAND AND WALES

The Family Proceedings (Amendment No. 3) Rules 1997

Made - - - - 28th July 1997
Laid before Parliament 31st July 1997
Coming into force - - 1st October 1997

We, the authority having power under section 40(1) of the Matrimonial and Family Proceedings Act 1984⁽¹⁾ to make rules of court for the purposes of family proceedings in the High Court or county courts, in the exercise of the powers conferred by the said section 40, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Family Proceedings (Amendment No. 3) Rules 1997 and shall come into force on 1st October 1997.

(2) In these Rules, a rule referred to by number means the rule so numbered in the Family Proceedings Rules 1991⁽²⁾ and a reference to Appendix 1 is a reference to Appendix 1 to those Rules.

2. For rules 3.8, 3.9 and 3.10⁽³⁾, there shall be substituted the following—

“Applications under Part IV of the Family Law Act 1996 (Family Homes and Domestic Violence)⁽⁴⁾

3.8.—(1) An application for an occupation order or a non-molestation order under Part IV of the Family Law Act 1996 shall be made in Form FL401.

(2) An application for an occupation order or a non-molestation order made by a child under the age of sixteen shall be made in Form FLA401 but shall be treated, in the first instance, as an application to the High Court for leave.

(1) 1984 c. 42; section 40 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 50 and the Civil Procedure Act 1997 (c. 12), Schedule 2 paragraph 3.
(2) S.I.1991/1247; the relevant amending instruments are noted in footnotes to provisions in the instrument.
(3) Rule 3.9 was amended by S.I. 1991/2113.
(4) 1996 c. 27.

(3) An application for an occupation order or a non-molestation order which is made in other proceedings which are pending shall be made in Form FL401.

(4) An application in Form FL401 shall be supported by a statement which is signed by the applicant and is sworn to be true.

(5) Where an application is made without giving notice, the sworn statement shall state the reasons why notice was not given.

(6) An application made on notice (together with the sworn statement and a notice in Form FL402) shall be served by the applicant on the respondent personally not less than 2 days before the date on which the application will be heard.

(7) The court may abridge the period specified in paragraph (6).

(8) Where the applicant is acting in person, service of the application shall be effected by the court if the applicant so requests.

This does not affect the court's power to order substituted service.

(9) Where an application for an occupation order or a non-molestation order is pending, the court shall consider (on the application 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 FL417 if it seems necessary or expedient to do so.

(10) Rule 9.2A shall not apply to an application for an occupation order or a non-molestation order under Part IV of the Family Law Act 1996.

(11) A copy of an application for an occupation order under section 33, 35 or 36 of the Family Law Act 1996 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 FL416 informing him of his right to make representations in writing or at any hearing.

(12) Where the application is for the transfer of a tenancy, notice of the application shall be served by the applicant on the other cohabitant or spouse and on the landlord (as those terms are defined by paragraph 1 of Schedule 7 to the Family Law Act 1996) and any person so served shall be entitled to be heard on the application.

(13) Rules 2.62(4) to (6) and 2.63 (investigation, requests for further information) shall apply, with the necessary modifications, to

(a) an application for an occupation order under section 33, 35 or 36 of the Family Law Act 1996, and

(b) an application for the transfer of a tenancy,

as they apply to an application for ancillary relief.

(14) Rule 3.6(7) to (9) (Married Women's Property Act 1882(5)) shall apply, with the necessary modifications, to an application for the transfer of a tenancy, as they apply to an application under rule 3.6.

(15) The applicant shall file a statement in Form FL415 after he has served the application.

Hearing of applications under Part IV of the Family Law Act 1996

3.9.—(1) An application for an occupation order or a non-molestation order under Part IV of the Family Law Act 1996 shall be dealt with in chambers unless the court otherwise directs.

(2) Where an order is made on an application made ex parte, a copy of the order together with a copy of the application and of the sworn statement in support shall be served by the applicant on the respondent personally.

(3) Where the application is for an occupation order under section 33, 35 or 36 of the Family Law Act 1996, 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.

(4) A copy of an order made on an application heard inter partes shall be served by the applicant on the respondent personally.

(5) Where the applicant is acting in person, service of a copy of any order made on the hearing of the application shall be effected by the court if the applicant so requests.

(6) The following forms shall be used in connection with hearings of applications under Part IV of the Family Law Act 1996—

- (a) a record of the hearing shall be made on Form FL405, and
- (b) any order made on the hearing shall be issued in Form FL404.

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

(8) An application to vary, extend or discharge an order made under Part IV of the Family Law Act 1996 shall be made in Form FL403 and this rule shall apply to the hearing of such an application.

Enforcement of orders made on applications under Part IV of the Family Law Act 1996

3.9A.—(1) Where a power of arrest is attached to one or more of the provisions (“the relevant provisions”) of an order made under Part IV of the Family Law Act 1996—

- (a) the relevant provisions shall be set out in Form FL406 and the form shall not include any provisions of the order to which the power of arrest was not attached; and
- (b) a copy of the form shall be delivered to the officer for the time being in charge of any police station for the applicant’s address or of such other police station as the court may specify.

The copy of the form delivered under sub-paragraph (b) shall be accompanied by a statement showing that the respondent has been served with the order or informed of its terms (whether by being present when the order was made or by telephone or otherwise).

(2) Where an order is made varying or discharging the relevant provisions, the proper officer shall—

- (a) immediately inform the officer who received a copy of the form under paragraph (1) and, if the applicant’s address has changed, the officer for the time being in charge of the police station for the new address; and
- (b) deliver a copy of the order to any officer so informed.

(3) An application for the issue of a warrant for the arrest of the respondent shall be made in Form FL407 and the warrant shall be issued in Form FL408.

(4) The court before whom a person is brought following his arrest may—

- (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the order, or

- (b) adjourn the proceedings and, where such an order is made, the arrested person may be released and—
- (i) be dealt with within 14 days of the day on which he was arrested; and
 - (ii) be given not less than 2 days' notice of the adjourned hearing.

Nothing in this paragraph shall prevent the issue of a a notice under CCR Order 29, rule 1(4) if the arrested person is not dealt with within the period mentioned in sub-paragraph (b)(i) above.

- (5) The following provisions shall apply, with the necessary modifications, to the enforcement of orders made on applications under Part IV of the Family Law Act 1996—
- (a) RSC Order 52, rule 7 (power to suspend execution of committal order);
 - (b) (in a case where an application for an order of committal is made to the High Court) RSC Order 52, rule 2 (application for leave);
 - (c) CCR Order 29, rule 1 (committal for breach of order);
 - (d) CCR Order 29, rule 1A (undertakings);
 - (e) CCR Order 29, rule 3 (discharge of person in custody);

and CCR Order 29, rule 1 shall have effect, as if for paragraph (3), there were substituted the following—

“(3) At the time when the order is drawn up, the proper officer shall—

- (a) where the order made is (or includes) a non-molestation order and
- (b) where the order made is an occupation order and the court so directs,

issue a copy of the order, indorsed with or incorporating a notice as to the consequences of disobedience, for service in accordance with paragraph (2).”.

(6) The court may adjourn consideration of the penalty to be imposed for contempts found provided and such consideration may be restored if the respondent does not comply with any conditions specified by the court.

(7) Where the court makes a hospital order in Form FL413 or a guardianship order in Form FL414 under the Mental Health Act 1983(6), the proper officer shall—

- (a) send to the hospital any information which will be of assistance in dealing with the patient;
- (b) inform the applicant when the respondent is being transferred to hospital.

(8) Where a transfer direction given by the Secretary of State under section 48 of the Mental Health Act 1983 is in force in respect of a person remanded in custody by the court under Schedule 5 to the Family Law Act 1996, the proper officer shall notify—

- (a) the governor of the prison to which that person was remanded; and
- (b) the hospital where he is detained,

of any committal hearing which that person is required to attend and the proper officer shall give notice in writing to the hospital where that person is detained of any further remand under paragraph 3 of Schedule 5 to the Family Law Act 1996.

(9) An order for the remand of the respondent shall be in Form FL409.

(10) In paragraph (4) “arrest” means arrest under a power of arrest attached to an order or under a warrant of arrest.

Applications under Part IV of the Family Law Act 1996: bail

3.10.—(1) An application for bail made by a person arrested under a power of arrest or a warrant of arrest may be made either orally or in writing.

- (2) Where an application is made in writing, it shall contain the following particulars—
- (a) the full name of the person making the application;
 - (b) the address of the place where the person making the application is detained at the time when the application is made;
 - (c) the address where the person making the application would reside if he were to be granted bail;
 - (d) the amount of the recognizance in which he would agree to be bound; and
 - (e) the grounds on which the application is made and, where a previous application has been refused, full particulars of any change in circumstances which has occurred since that refusal.

(3) An application made in writing shall be signed by the person making the application or by a person duly authorised by him in that behalf or, where the person making the application is a minor or is for any reason incapable of acting, by a guardian ad litem acting on his behalf and a copy shall be served by the person making the application on the applicant for the Part IV order.

(4) The persons prescribed for the purposes of paragraph 4 of Schedule 5 to the Family Law Act 1996 (postponement of taking of recognizance) are—

- (a) a district judge,
 - (b) a justice of the peace,
 - (c) a justices' clerk,
 - (d) a police officer of the rank of inspector or above or in charge of a police station, and
 - (e) (where the person making the application is in his custody) the governor or keeper of a prison.
- (5) The person having custody of the person making the application shall—
- (a) on receipt of a certificate signed by or on behalf of the district judge stating that the recognizance of any sureties required have been taken, or on being otherwise satisfied that all such recognizances have been taken; and
 - (b) on being satisfied that the person making the application has entered into his recognizance,

release the person making the application.

- (6) The following forms shall be used—
- (a) the recognizance of the person making the application shall be in Form FL410 and that of a surety in Form FL411;
 - (b) a bail notice in Form FL412 shall be given to the respondent where he is remanded on bail.”.

3.—(1) Rule 4.24(7) shall stand as paragraph (1) of that rule and shall be amended by inserting, as sub-paragraph (b), the following—

“(b) section 38A(2)(b)(ii) or 44A(2)(b)(ii), or”

- (2) After rule 4.24(1), there shall be inserted the following—
- “(2) Any written consent given for the purposes of subsection (2) of section 38A or section 44A, shall include a statement that the person giving consent—
- (a) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him; and
 - (b) understands that the giving of consent could lead to the exclusion of the relevant person from the dwelling-house in which the child lives.”.

4. After rule 4.24, there shall be inserted the following new rule—

“Exclusion requirements: interim care orders and emergency protection orders

4.24A.—(1) This rule applies where the court includes an exclusion requirement in an interim care order or an emergency protection order.

- (2) The applicant for an interim care order or emergency protection order shall—
- (a) prepare a separate statement of the evidence in support of the application for an exclusion requirement;
 - (b) serve the statement personally on the relevant person with a copy of the order containing the exclusion requirement (and of any power of arrest which is attached to it);
 - (c) inform the relevant person of his right to apply to vary or discharge the exclusion requirement.

(3) Where a power of arrest is attached to an exclusion requirement in an interim care order or an emergency protection order, a copy of the order shall be delivered to the officer for the time being in charge of the police station for the area in which the dwelling-house in which the child lives is situated (or of such other station as the court may specify) together with a statement showing that the relevant person has been served with the order or informed of its terms (whether by being present when the order was made or by telephone or otherwise).

(4) Rules 3.9(5), 3.9A (except paragraphs (1) and (3)) and 3.10 shall apply, with the necessary modifications, for the service, variation, discharge and enforcement of any exclusion requirement to which a power of arrest is attached as they apply to an order made on an application under Part IV of the Family Law Act 1996.

(5) The relevant person shall serve the parties to the proceedings with any application which he makes for the variation or discharge of the exclusion requirement.

- (6) Where an exclusion requirement ceases to have effect whether—
- (a) as a result of the removal of a child under section 38A(10) or 44A(10),
 - (b) because of the discharge of the interim care order or emergency protection order, or
 - (c) otherwise,

the applicant shall inform—

- (i) the relevant person,
- (ii) the parties to the proceedings,
- (iii) any officer to whom a copy of the order was delivered under paragraph (3), and
- (iv) (where necessary) the court.

(7) Where the court includes an exclusion requirement in an interim care order or an emergency protection order of its own motion, paragraph (2) shall apply with the omission of any reference to the statement of the evidence.”.

5. After Rule 7.2(3) there shall be inserted the following new paragraph–

“(3A) Where an order or warrant for the arrest or committal of any person has been made or issued in proceedings under Part IV of the Family Law Act 1996 pending in the principal registry which are treated as pending in a county court, the order or warrant may, if the court so directs, be executed by the tipstaff within any county court district.”.

6. Rule 8.1(2)(b) shall be amended by substituting for “3.6 or 3.8”, “or 3.6”.

7. After rule 8.1, there shall be inserted the following new rule–

“Appeals from orders made under Part IV of the Family Law Act 1996

8.1A.—(1) This rule applies to all appeals from orders made under Part IV of the Family Law Act 1996 and on such an appeal–

- (a) paragraphs (2), (3), (4), (5), (7) and (8) of rule 4.22,
- (b) paragraphs (5) and (6) of rule 8.1, and
- (c) paragraphs (4)(e) and (6) of rule 8.2,

shall apply subject to the following provisions of this rule and with the necessary modifications.

(2) The justices' clerk of the magistrates' court from which an appeal is brought shall be served with the documents mentioned in rule 4.22(2).

(3) Where an appeal lies to the High Court, the documents required to be filed by rule 4.22(2) shall be filed in the registry of the High Court which is nearest to the magistrates' court from which the appeal is brought.

(4) Where the appeal is brought against the making of a hospital order or a guardianship order under the Mental Health Act 1983, a copy of any written evidence considered by the magistrates' court under section 37(1)(a) of the 1983 Act shall be sent by the justices' clerk to the registry of the High Court in which the documents relating to the appeal are filed in accordance with paragraph (3).

(5) A district judge may dismiss an appeal to which this rule applies for want of prosecution and may deal with any question of costs arising out of the dismissal or withdrawal of an appeal.

(6) Any order or decision granting or varying an order (or refusing to do so) in proceedings in which an application is made in accordance with rule 3.8 for–

- (a) an occupation order as described in section 33(4) of the Family Law Act 1996,
- (b) an occupation order containing any of the provisions specified in section 33(3) where the applicant or the respondent has matrimonial home rights, or
- (c) a transfer of tenancy,

shall be treated as a final order for the purposes of CCR Order 37, rule 6 and, on an appeal from such an order, the judge may exercise his own discretion in substitution for that of the district judge and the provisions of CCR Order 37, rule 6 shall apply.”.

8. In Appendix 1–

- (a) for forms C11, C23 and C33 there shall be substituted the forms in Schedule 1 to these Rules;

(b) at the end of the list of forms, there shall be inserted the list of forms set out in Schedule 2 to these Rules;

(c) the forms set out in Schedule 3 to these Rules shall be inserted at the end of Appendix 1.

9. Subject to paragraph 10(3) of Schedule 9 to the Family Law Act 1996, rules 2 to 8 shall not apply to proceedings commenced before Part IV of that Act came into force.

Miscellaneous amendments

10. After rule 2.9(6) there shall be inserted the following new paragraph–

“(6A) Paragraph (6) shall not apply in cases where–

(a) the petition alleges two years' separation coupled with the respondent's consent to a decree being granted; and

(b) none of the other facts mentioned in section 1(2) of the Act of 1973 is alleged, unless the petitioner produces to the court a written statement containing the respondent's consent to the grant of a decree.”.

11. Rule 2.29 shall be amended by substituting, for the words “CCR Order 20, rule 18” in both places where they occur, the words “CCR Order 20, rule 13”.

12. Rule 2.36(4) shall be amended by inserting, after the words “evidence filed under rule 2.24(3)”, the words “(except the statement of arrangements)”.

13. After rule 2.40(2) there shall be inserted the following new paragraph–

“(3) A cause shall be treated as pending for the purposes of this rule for a period of one year after the last hearing or judicial intervention in the cause and rule 1.2(2) shall not apply.”

14. Rule 3.13(5) shall be amended by substituting, for the words “in Form M26”, the words “in Form M30”.

15. Rule 4.27(1)(8) shall be amended by substituting, for the words “in Form C37”, the words “in writing”.

16. Rule 6.2(1) shall be amended by inserting, at the end, the words “and issued out of the principal registry”.

17.—(1) Rule 7.2(3) shall be amended by inserting, after the words “divorce county court”, the words “or a county court” and by substituting, for the words “a judge”, the words “the court”.

(2) Rule 7.2(4) shall be amended by inserting, after the words “Royal Courts of Justice”, the words “or the principal registry”.

18. Rule 7.20(3) shall be amended by substituting, for the words “under section 2(2)”, the words “under section 21(2)”.

19. After rule 9.2A(6)(9) there shall be inserted the following new paragraph–

“(6A) In exercising its powers under paragraph (6) the court may order the next friend or guardian ad litem to take such part in the proceedings as the court may direct.”.

20. Form M18 shall be omitted from Appendix 1.

(8) Rule 4.27 was amended by S.I. 1994/3155.

(9) Rule 9.2A was inserted by S.I. 1992/456.

Dated 28th July 1997

Irvine of Lairg, C.

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

SCHEDULE 1

SCHEDULE 1

Supplement for an application for an Emergency Protection Order

Form C11

Section 44 Children Act 1989

The court	To be completed by the court Date issued
The full name(s) of the child(ren)	Case number Child(ren)'s number(s)

1 Description of the child(ren)

*If a child's identity is not known, state details which will identify the child.
You may enclose a recent photograph of the child, which should be dated.*

2 The grounds for the application

The grounds are

ANY
APPLICANT

- A that there is reasonable cause to believe that [this] [these] child[ren] [is] [are] likely to suffer significant harm if
 - the child[ren] [is] [are] not removed to accommodation provided by or on behalf of this applicant
 - or the child[ren] [does] [do] not remain in the place where [the child] [they] [is] [are] currently being accommodated.

LOCAL
AUTHORITY
APPLICANTS

- B that enquiries are being made about the welfare of the child[ren] under Section 47(1)(b) of Children Act 1989 **and** those enquiries are being frustrated by access to the child[ren] being unreasonably refused to someone who is authorised to seek access **and** there is reasonable cause to believe that access to the child[ren] is required as a matter of urgency.

AUTHORISED
PERSON
APPLICANTS

- C that there is reasonable cause to suspect that the child[ren] [is] [are] suffering, or [is] [are] likely to suffer, significant harm **and** enquiries are being made with respect to the welfare of the child[ren] **and** those enquiries are being frustrated by access to the child[ren] being unreasonably refused to someone who is authorised to seek access **and** there is reasonable cause to believe that access to the child[ren] is required as a matter of urgency.

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

3 The additional order(s) applied for

- information on the whereabouts of the child[ren] (Section 48(1) Children Act 1989).
- authorisation for entry of premises (Section 48(3) Children Act 1989).
- authorisation to search for another child on the premises (Section 48(4) Children Act 1989).

4 The direction(s) sought

- contact (Section 44(6)(a) Children Act 1989).
- a medical or psychiatric examination or other assessment of the child[ren] (Section 44(6)(b) Children Act 1989).
- to be accompanied by a registered medical practitioner, registered nurse or registered health visitor (Section 45(12) Children Act 1989).
- an exclusion requirement (Section 44A(1) Children Act 1989).

5 The reason(s) for the application

If you are relying on a report or other documentary evidence, state the date(s) and author(s) and enclose a copy.

Signed (Applicant)	Date
-----------------------	------

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



In the

Case Number:

Child(ren)'s Number(s):

Order Emergency Protection Order
Section 44 Children Act 1989

The full name(s) of the child(ren) Boy or Girl Date(s) of birth

[described as

Warning It is an offence intentionally to obstruct any person exercising the power under Section 44(4)(b) Children Act 1989 to remove, or prevent the removal, of a child (Section 44(15) Children Act 1989).

The Court grants an Emergency Protection Order to the applicant who is

The Order gives the applicant parental responsibility for the child[ren].

The Court authorises [the applicant to remove the child[ren] to accommodation provided by or on behalf of the applicant]
[the applicant to prevent the child[ren] being removed from

[This order directs that any person who can produce the child[ren] to the applicant must do so.]

The Court directs that [[a named person] to be excluded from [a named address] [forthwith] [from [date]] so that the child may continue to live there, consent to the exclusion requirement having been given by [a named person]]

[a power of arrest be attached to the exclusion requirement for a period of]

This order ends on at [am] [pm]

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
District Judge [of Family Division]
Justice[s] of the Peace

on at [am] [pm]

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

Notes about the Emergency Protection Order

About this order

This is an Emergency Protection Order.
This order states what has been authorised in respect of the child[ren] and when the order will end.
The court can extend this order for up to 7 days but it can only do this once.

Warning

If you are shown this order, you must comply with it. If you do not, you may commit an offence. Read the order now.

What you may do

You may apply to the court
to **change the directions**
or to **end the order**.

You may apply at any time, but the court will only hear an application to end an order **when 72 hours** have passed since the order was made.
If you would like to ask the court to change the directions, or end the order, you must fill in a form. You can obtain the form from a court office.

If the court has directed that the child[ren] should have a medical, psychiatric or another kind of examination, you may ask the court to allow a doctor of your choice to be at the examination.

What you should do

Go to a solicitor as soon as you can.

Some solicitors specialise in court proceedings which involve children. You can obtain the address of a solicitor or advice agency from the Yellow Pages or the Solicitor's Regional Directory.

You will find these books at

- a Citizens Advice Bureau
- a Law Centre
- a local library

A solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

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



In the

Case Number:

Child(ren)'s Number(s):

Order

Interim Care Order
Section 38 Children Act 1989

The full name(s) of the child(ren)

Date(s) of birth

The Court orders that the child[ren] be placed in the care of

local authority

The order expires on

The Court directs

[[a named person] be excluded from [a named address] [forthwith] [from [date]] so that the child may continue to live there, consent to the exclusion requirement having been given by [a named person]].

[a power of arrest be attached to the exclusion requirement for a period of]

Warning

While a Care Order is in force no person may cause the child[ren] to be known by a new surname or remove the child[ren] from the United Kingdom without the written consent of every person with parental responsibility for the child[ren] or the leave of the court.

However, the local authority, in whose care a child is, may remove that child from the United Kingdom for a period of less than 1 month.

It may be a criminal offence under the Child Abduction Act 1984 to remove the child[ren] from the United Kingdom without the leave of the Court.

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
District Judge [of the Family Division]
Justice[s] of the Peace
Clerk of the Court

on

C33

SCHEDULE 2

Rule 8

FAMILY PROCEEDINGS (AMENDMENT NO 3) RULES 1997

FL401	Application for a non-molestation order/an occupation order
FL402	Notice of Proceedings [Hearing] [Directions Appointment]
FL403	Application to vary, extend or discharge an order in existing proceedings
FL404	Order or Direction
FL405	Record of Hearing
FL406	Power of Arrest
FL407	Application for a Warrant of Arrest
FL408	Warrant of Arrest
FL409	Remand Order
FL410	Recognizance of respondent
FL411	Recognizance of respondent's surety
FL412	Bail Notice
FL413	Hospital Order/Interim Hospital Order
FL414	Guardianship Order
FL415	Statement of Service
FL416	Notice to Mortgagees and Landlords
FL417	Transfer of proceedings to [the High Court] [a county court] [a family proceedings court]

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

SCHEDULE 3

Rule 8

SCHEDULE 3

Rule 8

Application for:
a non-molestation order
an occupation order

Family Law Act 1996 (Part IV)

The court

To be completed by the court

Date issued

Case number

Please read the accompanying notes as you complete this form.

1 About you (the applicant)

State your title (Mr, Mrs etc), full name, address, telephone number and date of birth (if under 18):

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

2 About the respondent

State the respondent's name, address and date of birth (if known):

3 The Order(s) for which you are applying

This application is for:

- a non-molestation order
- an occupation order
- Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the statement in support.

4 Your relationship to the respondent (the person to be served with this application)

Your relationship to the respondent is:

Please tick only one of the following

1 Married

2 Were married

3 Cohabiting

4 Were cohabiting

5 Both of you live or have lived in the same household

6 Relative

State how related:

7 Agreed to marry.

Give the date the agreement was made. If the agreement has ended, state when.

8 Both of you are parents of or have parental responsibility for a child

9 One of you is a parent of a child and the other has parental responsibility for that child

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

-
- 10 One of you is the natural parent or grandparent of a child adopted or freed for adoption, and the other is:
- (i) the adoptive parent
 - or (ii) a person who has applied for an adoption order for the child
 - or (iii) a person with whom the child has been placed for adoption
 - or (iv) the child who has been adopted or freed for adoption.
- State whether (i), (ii), (iii) or (iv):

- 11 Both of you are parties to the same family proceedings (see also Section 11 below).

5 Application for a non-molestation order

If you wish to apply for a non-molestation order, state briefly in this section the order you want.

Give full details in support of your application in your supporting evidence

6 Application for an occupation order

If you do not wish to apply for an occupation order, please go to section 9 of this form.

- (A) State the address of the dwelling house to which your application relates:
- (B) State whether it is occupied by you or the respondent now or in the past, or whether it was intended to be occupied by you or the respondent:

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

-
- (C) State whether you are entitled to occupy the dwelling-house: Yes No

If yes, explain why:

- (D) State whether the respondent is entitled to the dwelling-house: Yes No

If yes, explain why:

On the basis of your answer to (C) and (D) above, tick one or the boxes 1 to 5 below to show the category into which you fit

- 1 a spouse who has matrimonial home rights in the dwelling-house, or a person who is entitled to occupy it by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation.

If you tick box 1, state whether there is a dispute or pending proceedings between you and the respondent about your right to occupy the dwelling-house.

- 2 a former spouse with no existing right to occupy, where the respondent spouse is entitled.
- 3 a cohabitant or former cohabitant with no existing right to occupy, where the respondent cohabitant or former cohabitant is so entitled.
- 4 a spouse or former spouse who is not entitled to occupy, where the respondent spouse or former spouse is also not entitled.
- 5 a cohabitant or former cohabitant who is not entitled to occupy, where the respondent cohabitant or former cohabitant is also not entitled.

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

Matrimonial Home Rights

If you do have matrimonial home rights please:
State whether the title to the land is registered or
unregistered (if known):

If registered, state the Land Registry title number
(if known):

**If you wish to apply for an occupation order,
state briefly here the order you want.** Give full
details in support of your application in your
supporting evidence.

7 Application for additional order(s) about the dwelling house

If you want to apply for any of the orders listed
in the notes to this section, state what order you
would like the court to make:

8 Mortgage and rent

Is the dwelling house subject to a mortgage?

Yes No

If yes, please provide the name and address of the
mortgagee:

Is the dwelling house rented?

Yes No

If yes, please provide the name and address of the
landlord:

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

9 At the court

Will you need an interpreter at court?

Yes No

If 'Yes', specify the language:

If you need an interpreter because you do not speak English, you are responsible for providing your own.

If you need an interpreter or other facilities because of a disability, please contact the court to ask what help is available.

10 Other information

State the name and date of birth of any child living with or staying with, or likely to live with or stay with, you or the respondent:

State the name of any other person living in the same household as you and the respondent, and say why they live there:

11 Other Proceedings and Orders

If there are any other current family proceedings or orders in force involving you and the respondent, state the type of proceedings or orders, the court and the case number. This includes any application for an occupation order or non-molestation order against you by the respondent.

This application is to be served upon the respondent

Signed

Date

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

Application for a non-molestation order or occupation order
Notes for Guidance

Section 1

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete Confidential Address Form C8. The court can give you this form.

If you are under 18, someone over 18 must help you make this application. That person, who might be one of your parents, is called a 'next friend'.

If you are under 16 you need permission to make this application. You must apply to the High Court for permission, using this form. If the High Court gives you permission to make this application, it will then either hear the application itself or transfer it to a county court.

You will only be able to apply as a relative of the respondent if you are:

(A) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of the respondent or of the respondent's spouse or former spouse.

(B) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by marriage) of the respondent or of the respondent's spouse or former spouse.

This includes, in relation to a person who is living or has lived with another person as husband and wife, any person who would fall within (A) or (B) if the parties were married to each other (for example, your cohabitee's father or brother).

Section 3

An urgent order made by the court before notice of the application is served on the respondent is called an ex-parte order. In deciding whether to make an ex-parte order the court will consider all the circumstances of the case, including:

- *any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately*
- *whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately*
- *whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved.*

If the court makes an ex-parte order, it must give the respondent an opportunity to make representations about the order as soon as just and convenient at a full hearing.

'Harm' in relation to a person who has reached the age of 18 means ill-treatment or the impairment of health, and in relation to a child means ill-treatment or the impairment of health and development. 'Ill-treatment' includes forms of ill-treatment which are not physical and, in relation to a child, includes sexual abuse. The court will require evidence of any harm which you allege in support of your application. This evidence should be included in the statement accompanying this application.

Agreements to marry: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

- evidence in writing*
- or the gift of an engagement ring in contemplation of marriage*
- or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.*

Parents and parental responsibility: You will fall within this category if

- both you and the respondent are either the parents of a child or have parental responsibility for that child*
- or if one of you is the parent and the other has parental responsibility.*

Under the Children Act 1989, parental responsibility is held automatically by a child's mother, and by the child's father if he and the mother were married to each other at the time of the child's birth or have married subsequently. Where this is not the case, parental responsibility can be acquired by the father in accordance with the provisions of the Children Act 1989.

Section 5

A non-molestation order can forbid the respondent to molest you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

Section 4

For you to be able to apply for an order you must be related to the respondent in one of the ways listed in this section of the form. If you are not related in one of these ways you should seek legal advice.

Cohabitants are a man and a woman who, although not married to each other, are living or have lived together as husband and wife. People who have cohabited, but have then married will not fall within this category, but will fall within the category of married people.

Those who live or have lived in the same household do not include people who share the same household because one of them is the other's employee, tenant, lodger or boarder.

Section 6

If you wish to apply for an occupation order but you are uncertain about your answer to any of the questions in this part of the application form, you should seek legal advice.

(A) A dwelling-house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.

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

Section 6 (continued)

(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling-house:

- (a) Are you the sole legal owner of the dwelling-house?
- (b) Are you and the respondent joint legal owners of the dwelling-house?
- (c) Is the respondent the sole legal owner of the dwelling-house?
- (d) Do you rent the dwelling-house as sole tenant?
- (e) Do you and the respondent rent the dwelling-house as joint tenants?
- (f) Does the respondent rent the dwelling-house as sole tenant?

If you answer **Yes** to (a), (b), (d) or (e) you are likely to be entitled to occupy the dwelling-house

Yes to (c) or (f) you may not be entitled (unless, for example, you are a spouse and have matrimonial home rights – see the notes under ‘Matrimonial Home Rights’ below)

Yes to (b), (c), (e) or (f), the respondent is likely to be entitled to occupy the dwelling-house

Yes to (a) or (d) the respondent may not be entitled (unless, for example, he is a spouse and has matrimonial home rights).

Box 1 For example, if you are sole owner, joint owner, or if you rent the property. If you are not a spouse, former spouse, cohabitant or former cohabitant of the respondent, you will only be able to apply for an occupation order if you fall within this category.

If you answer **Yes** to this question, it will not be possible for a magistrates’ court to deal with the application, unless the court decides that it is unnecessary for it to decide this question in order to deal with the application or make an order. If the court decides that it cannot deal with the application, it will transfer the application to a county court.

Box 2 For example, if the respondent was married to you and is sole owner or rents the property.

Box 3 For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

Matrimonial Home Rights

Where one spouse is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse is not so entitled, the spouse who is not entitled has matrimonial home rights. These are a right, if the spouse is in occupation, not to be evicted or excluded from the dwelling house except with the leave of the court and, if the spouse is not in occupation, the right with the leave of the court to enter into and occupy the dwelling-house.

Matrimonial home rights do not exist if the dwelling-house has never been, and was never intended to be, the matrimonial home of the two spouses. If the marriage has come to an end, matrimonial home rights will also have ceased, unless a court order has been made during the marriage for the rights to continue after the end of the marriage.

Occupation Orders The possible orders are:

If you have ticked **box 1** above, an order under section 33 of the Act may:

- enforce the applicant’s entitlement to remain in occupation as against the respondent
- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both parties
- if the respondent is also entitled to occupy, the order may prohibit, suspend or restrict the exercise by him, of that right
- restrict or terminate any matrimonial home rights of the respondent
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house
- declare that the applicant is entitled to occupy the dwelling-house or has matrimonial home rights in it
- provide that matrimonial home rights of the applicant are not brought to an end by the death of the other spouse or termination of the marriage.

If you have ticked **box 2** or **box 3** above, an order under section 35 or 36 of the Act may:

- give the applicant the right not to be evicted or excluded from the dwelling-house or any part of it by the respondent for a specified period
- prohibit the respondent from evicting or excluding the applicant during that period
- give the applicant the right to enter and occupy the dwelling-house for a specified period
- require the respondent to permit the exercise of that right
- regulate the occupation of the dwelling-house by either or both of the parties
- prohibit, suspend or restrict the exercise by the respondent of his right to occupy
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

If you have ticked **box 4** or **box 5** above, an order under section 37 or 38 of the Act may:

- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both of the parties
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

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

Section 6 (continued)

You should provide any evidence which you have on the following matters in your evidence in support of this application. If necessary, further statements may be submitted after the application has been issued.

If you have ticked box 1, 4 or 5 above, the court will need any available evidence of the following:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise.

If you have ticked box 2 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the length of time that has elapsed since you and the respondent ceased to live together
- the length of time that has elapsed since the marriage was dissolved or annulled
- the existence of any pending proceedings between you and the respondent:
 - under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders in connection with divorce proceedings etc.
 - or under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 (orders for financial relief against parents)
 - or relating to the legal or beneficial ownership of the dwelling-house.

If you have ticked box 3 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the nature of you and the respondent's relationship

- the length of time during which you have lived together as husband and wife
- whether you and the respondent have had any children, or have both had parental responsibility for any children
- the length of time which has elapsed since you and the respondent ceased to live together
- the existence of any pending proceedings between you and the respondent under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 or relating to the legal or beneficial ownership of the dwelling-house.

Section 7

Under section 40 of the Act the court may make the following additional orders when making an occupation order:

- impose on either party obligations as to the repair and maintenance of the dwelling house
- impose on either party obligations as to the payment of rent, mortgage or other outgoings affecting it
- order a party occupying the dwelling-house to make periodical payments to the other party in respect of the accommodation, if the other party would (but for the order) be entitled to occupy it
- grant either party possession or use of furniture or other contents
- order either party to take reasonable care of any furniture or other contents
- order either party to take reasonable steps to keep the dwelling-house and any furniture or other contents secure.

Section 8

If the dwelling-house is rented or subject to a mortgage, the landlord or mortgagee must be served with notice of the proceedings in Form FL416. He or she will then be able to make representations to the court regarding the rent or mortgage.

Section 10

A person living in the same household may, for example, be a member of the family or a tenant or employee of you or the respondent.

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

In

Telephone Number

Fax Number

Case Number

Notice of Proceedings
[Hearing] [Directions Appointment]

has applied to the court for an order.

About the [Hearing] [Directions Appointment]

You should attend when the Court hears the application at

on

at [am] [pm]

What to do next

There is a copy of the application with this Notice. You have been named as a party in the application. Read the application now, and the notes overleaf.

When you go to court please take this Notice with you and show it to a court official.

FL402 Notice of Proceedings

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

About this Notice

Note 1 It is in your own interest to attend the court on the date shown on this form. You should be ready to give any evidence which you think will help you to put your side of the case.

Note 2 **For legal advice** go to a solicitor or an advice agency.

You can obtain the address of a solicitor or an advice agency from the Yellow Pages or the Solicitors' Regional Directory.

You will find these books at
a Citizens' Advice Bureau
a Law Centre
a local library

A solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

Note 3 **If you require an interpreter** because you do not speak English, you must bring your own.

because of a disability, please contact the court to ask what help is available.

Note 4 **To the respondent** the following information only applies if the applicant has applied for an occupation order

If the applicant has ticked box 1, 4 or 5 on page 4 of the application form, the court will need any available evidence of the following:

- the housing needs and resources of you, the applicant and any relevant child
- the financial resources of you and the applicant
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well being of you, the applicant and any relevant child
- the conduct of you and the applicant in relation to each other and otherwise.

If the applicant has ticked box 2, the court will need any available evidence of:

- the housing needs and resources of you, the applicant and relevant child
- the financial resources of you and the applicant
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well being of you, the applicant and any relevant child
- the conduct of you and the applicant in relation to each other and otherwise
- the length of time that has elapsed since you and the applicant ceased to live together
- the length of time that has elapsed since the marriage was dissolved or annulled

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

-
-
- the existence of any pending proceedings between you and the applicant:
 - under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders in connection with divorce proceedings etc.)
 - or
 - under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 (orders for financial relief against parents)
 - or
 - relating to the legal or beneficial ownership of the dwelling-house

If the applicant has ticked box 3, the court will need any available evidence of:

- the housing needs and resources of you, the applicant and any relevant child
- the financial resources of you and the applicant
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well being of you, the applicant and any relevant child
- the conduct of you and the applicant in relation to each other and otherwise
- the nature of you and the applicant's relationship
- the length of time during which you have lived together as husband and wife
- whether you and the applicant have any children, or have both had parental responsibility for any children
- the length of time that has elapsed since you and the applicant ceased to live together
- the existence of any pending proceedings between you and the applicant under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989, or relating to the legal or beneficial ownership of the dwelling-house.

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

<p>Application to vary, extend or discharge an order in existing proceedings</p> <p><i>Family Law Act 1996 (Part IV)</i></p> <p>The court to which you are applying: <i>Note: you must make this application to the court which made the original order.</i></p>	<p>To be completed by the court</p> <p>Date issued</p> <p>Case number</p>
--	---

1 About you (the applicant)

State your title, full name, address, telephone number and date of birth (if under 18):

If you do not wish your address to be made known to the respondent, leave this space blank and complete Confidential Address Form C8 (if you have not already done so). The court can give you this form.

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

If you are already a party to the case, give your description (for example, applicant, respondent or other).

2 The order(s) for which you are applying

Please attach a copy of the order if possible.

- I am applying to vary
- extend
- discharge

the order dated:

If you are applying for an order to be varied or extended please give details of the order which you would like the court to make:

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

3 Your reason(s) for applying

State briefly your reasons for applying.

4 Person(s) to be served with this application

For each respondent to this application state the title, full name and address.

Signed
(Applicant)

Date

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



In the

Case Number

[Order]

[Direction]

Sheet of

Family Law Act 1996

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



In the

Case Number

[Order]

[Direction]

Sheet of

Family Law Act 1996

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
[Deputy] District Judge [of the Family Division]
Justice[s] of the Peace
[Assistant] Recorder
Clerk of the Court

on

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

Orders under Family Law Act 1996 Part IV

(General heading followed by Notice A or Notice B and numbered options as appropriate)

Notice A – order includes non-molestation order – penal notice mandatory

Important Notice to the Respondent [name]

This order gives you instructions which you must follow. You should read it all carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to ask the court to change or cancel the order but you must obey it unless the court does change or cancel it.

You must obey the instructions contained in this order. If you do not, you will be guilty of contempt of court, and you may be sent to prison.

*Notice B – order does not include non-molestation order – *penal notice discretionary*

Important Notice to the Respondent [name]

This order gives you instructions which you must follow. You should read it all carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to ask the court to change or cancel the order but you must obey it unless the court does change or cancel it.

You must obey the instructions contained in this order. *[If you do not, you will be guilty of contempt of court, and you may be sent to prison.]

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

Occupation orders under s33 of the Family Law Act 1996

1. The court declares that the applicant [name] is entitled to occupy [address of home or intended home] as [his/her] home. **OR**
2. The court declares that the applicant [name] has matrimonial home rights in [address of home or intended home]. **AND/OR**
3. The court declares that the applicant [name]'s matrimonial home rights shall not end when the respondent [name] dies or their marriage is dissolved and shall continue until ... or further order.

It is ordered that:

4. The respondent [name] shall allow the applicant [name] to occupy [address of home or intended home] **OR**
5. The respondent [name] shall allow the applicant [name] to occupy part of [address of home or intended home] namely: [specify part]
6. The respondent [name] shall not obstruct, harass or interfere with the applicant [name]'s peaceful occupation of [address of home or intended home]
7. The respondent [name] shall not occupy [address of home or intended home] **OR**
8. The respondent [name] shall not occupy [address of home or intended home] from [specify date] until [specify date] **OR**
9. The respondent [name] shall not occupy [specify part of address of home or intended home] **AND/OR**
10. The respondent [name] shall not occupy [address or part of address] between [specify dates or times]
11. The respondent [name] shall leave [address or part of address] [forthwith] [within ____ [hours/days] of service on [him/her] of this order.] **AND/OR**
12. Having left [address or part of address], the respondent [name] shall not return to, enter or attempt to enter [or go within [specify distance] of] it.

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

Occupation orders under ss35 & 36 of the Family Law Act 1996

It is ordered that:

13. The applicant [name] has the right to occupy [address of home or intended home] and the respondent [name] shall allow the applicant [name] to do so. **OR**
14. The respondent [name] shall not evict or exclude the applicant [name] from [address of home or intended home] or any part of it namely [specify part]. **AND/OR**
15. The respondent [name] shall not occupy [address of home or intended home]. **OR**
16. The respondent [name] shall not occupy [address of home or intended home] from [specify date] until [specify date] **OR**
17. The respondent [name] shall not occupy [specify part of address of home or intended home] **OR**
18. The respondent [name] shall leave [address or part of address] [forthwith] [within ___ [hours/days] of service on [him/her] of this order.] **AND/OR**
19. Having left [address or part of address], the respondent [name] shall not return to, enter or attempt to enter [or go within [specify distance] of] it.

Occupation orders under ss37 & 38 of the Family Law Act 1996

It is ordered that:

20. The respondent [name] shall allow the applicant [name] to occupy [address of home or intended home] or part of it namely: [specify]. **AND/OR**
21. [One or both of the provisions in paragraphs 6 & 10 above may be inserted] **AND/OR**
22. The respondent [name] shall leave [address or part of address] [forthwith] [within ___ [hours/days] of service on [him/her] of this order.] **AND/OR**
23. Having left [address or part of address], the respondent [name] may not return to, enter or attempt to enter [or go within [specify distance] of] it.

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

Additional provisions which may be included in occupation orders made under ss33, 35 or 36 of Family Law Act 1996

It is ordered that:

24. The [applicant [name]] [respondent [name]] shall maintain and repair [address of home or intended home] **AND/OR**

25. The [applicant [name]] [respondent [name]] shall pay the rent for [address of home or intended home] **OR**

26. The [applicant [name]] [respondent [name]] shall pay the mortgage payments on [address of home or intended home]. **OR**

27. The [applicant [name]] [respondent [name]] shall pay the following for [address of home or intended home]: [specify outgoings as bullet points].

28. The [party in occupation] shall pay to the [other party] £ each [week, month, etc] for [address of home etc].

29. The [party in occupation] shall keep and use the [furniture] [contents] [specify if necessary] of [address of home or intended home] and the [applicant [name]] [respondent [name]] shall return to the [party in occupation] the [furniture] [contents] [specify if necessary] [no later than [date/time]].

30. The [party in occupation] shall take reasonable care of the [furniture] [contents] [specify if necessary] of [address of home or intended home].

31. The [party in occupation] shall take all reasonable steps to keep secure [address of home or intended home] and the furniture or other contents [specify if necessary].

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

Duration

Occupation orders under s33 of the Family Law Act 1996

32. This order shall last until *[specify event or date]*. **OR**
33. This order shall last until a further order is made.

Occupation orders under ss35 & 37 of the Family Law Act 1996

34. This order shall last until *[state date which must not be more than 6 months from the date of this order]*.
35. The occupation order made on *[state date]* is extended until *[state date which must not be more than 6 months from the date of this extension]*.

Occupation orders under ss36 & 38 Family Law Act 1996

36. This order shall last until *[state date which must not be more than 6 months from the date of this order]*.
35. The occupation order made on *[state date]* is extended until *[state date which must not be more than 6 months from the date of this extension]* and must end on that date.

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

Non-molestation orders

It is ordered that:

38. The respondent [name] is forbidden to use or threaten violence against the applicant [name] [and must not instruct, encourage or in any way suggest that any other person should do so]. **AND/OR**

39. The respondent [name] is forbidden to intimidate, harass or pester [*or [specify]*] the applicant [name] [and must not instruct, encourage or in any way suggest that any other person should do so]. **AND/OR**

40. The respondent [name] is forbidden to use or threaten violence against the relevant child(ren) [name(s) and date(s) of birth] [and must not instruct, encourage or in any way suggest that any other person should do so]. **AND/OR**

41. The respondent [name] is forbidden to intimidate, harass or pester [*or [specify]*] [the relevant child(ren) [name(s) and date(s) of birth] [and must not instruct, encourage or in any way suggest that any other person should do so].



In the

Case Number

Power of Arrest

Family Law Act 1996

Applicant

Ref.

Respondent

Ref.

The Court orders that a power of arrest applies to the following paragraph(s) of an order made under this Act on the

(Here set out those provisions of the order to which this power of arrest is attached and no others)

Power of Arrest

The court is satisfied that the respondent has used or threatened violence against the [applicant] [[and] [or] the following child[ren]

[and that there is a risk of significant harm to the applicant [[and] [or] the above child[ren] attributable to the conduct of the respondent if the power of arrest is not attached immediately].

A power of arrest is attached to the order whereby any constable may (under the power given by section 47(6) of the Family Law Act 1996) arrest without warrant the respondent if the constable has any reasonable cause for suspecting that the respondent may be in breach of any provision to which the power of arrest is attached.

This Power of Arrest expires on

Note to the Arresting Officer

Where the respondent is arrested under the power given by section 47 of the Family Law Act 1996, that section requires that:

the respondent must be brought before the court within 24 hours of the time of his arrest

and if the matter is not then disposed of forthwith, the court may remand the respondent.

Nothing in section 47 authorises the detention of the respondent after the expiry of the period of 24 hours beginning at the time of his arrest, unless remanded by the court.

The period of 24 hours shall not include Christmas Day, Good Friday or a Sunday.

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
[Deputy] District Judge [of the Family Division]
Justice[s] of the Peace
[Assistant] Recorder

on

FL406 Power of Arrest

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

In the

Case Number

Application for a Warrant of Arrest

Applicant

Ref.

Respondent

Ref.

(1) Set out the precise parts of the order or undertaking relevant to this application. On the _____ day of _____, 19____, the Court made an order [or the respondent gave an undertaking] as follows: ⁽¹⁾

(2) Insert name of applicant. I, ⁽²⁾ _____, respondent⁽³⁾ apply for an order that a warrant should be issued for the arrest of the

(3) Insert name of person against whom the warrant of arrest is sought

(4) List the ways in which it is alleged that the respondent has disobeyed the order or broken the undertaking. The respondent has disobeyed the order [or broken the undertaking] by ⁽⁴⁾
If necessary continue on a separate sheet

Signed

Date

FL407 Application for a warrant of arrest

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



In the

Case Number

Remand Order

Family Law Act 1996

Applicant

Ref.

Respondent

Ref.

The Court orders that

the respondent be [remanded in custody to until the next hearing] [released on bail] [remanded to enable a medical examination and report to be made under section 35 of the Mental Health Act 1983.]

the respondent [be produced before] [attend] [the court at the next hearing]

[the respondent be admitted to, and detained in,

[The Court further orders that
*state by whom respondent is to be conveyed

Hospital

and conveyed there by*]

[and pending admission to that Hospital within 7 days, the respondent is to be detained at a place of safety, namely

and conveyed there by*]

The Court heard that

an order had been made on

at the [Magistrates'] [County] [High] Court

and that the respondent had disobeyed the order by

[The Court [heard] [considered]]

[the [written] evidence of a medical practitioner, namely

as required by the provisions of section 35 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [severe mental impairment] within the meaning of that Act.]

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

[Notice of bail]

[The respondent shall be released on bail:

- on entering into a recognizance in the sum of [£
- [and on providing [] suret[y][ies]] in the sum of [£] [and] [£]]
- [and subject to the following condition[s]]:
[that a medical examination and report be made on the respondent under section 35 of the Mental Health Act 1983.]

The next hearing is

on at [am] [pm]

Ordered by

[Mr] [Mrs] Justice
[His] [Her] Honour Judge
District Judge [of the Family Division]
Justice[s] of the Peace
[Assistant] Recorder

on

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



In the

Case Number

Recognizance of respondent

Family Law Act 1996

Applicant
Ref.
Respondent
Ref.

About you

Your name *Please put your surname or family name in CAPITAL LETTERS.*

Your address

Your undertaking

I promise to pay to the court the sum of £
if I do not comply with the following condition.

The condition is

that I appear before the court
at:

on

at [am] [pm]

or at any other place and time which may be ordered.

For official use

Taken before me
(name and title)

Signed
(Respondent)

Date

Signed

on

at

[am] [pm]

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



In the

Case Number

Recognizance of respondent's surety

Family Law Act 1996

Applicant
Ref.
Respondent
Ref.

About the respondent

Name

Address

About you (the surety)

Your name

Please put your surname or family name in CAPITAL LETTERS.

Your address

Your undertaking

About your undertaking

When you sign the undertaking below you agree to pay a sum of money if the respondent does not comply with the condition which follows.

The undertaking

I promise to pay to the court the sum of £
if the respondent does not comply with the following condition.

The condition is that

the respondent must appear before the court
at:

on

at [am] [pm]

or at any other place and time which may be ordered.

Signed
(Surety)

Date

For official use

Taken before me
(name and title)

Signed

on

at

[am] [pm]

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



In the

Case Number

Bail Notice

Family Law Act 1996

Applicant

Ref.

Respondent

Ref.

Notice to *(Name of respondent)*

Date of birth:

of *(Address)*

Warning

The order dated _____ continues in force. You must attend the hearing below. The court has the power to send you to prison if it finds that any of the allegations made against you are true.

The Court is satisfied that

you disobeyed the order made on _____
at the _____ [Magistrates'] [County] [High] Court
by *(specify breaches proven)*

About your bail

You have been remanded on bail which has been granted on condition that:

- [you provide a recognizance in the sum of [£ _____]]
- [you provide [_____] suret[y][ies] of [£ _____] [and] [£ _____]].
- [_____]

]

The next hearing is

at

[on _____ at [am] pm]

[on a date and at a time to be fixed by the court. The court will tell you when to attend].
On surrendering to the custody of the court, you may not leave the building without the consent of a court officer.

Signed
(name and title)

Date

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



In the

Case Number

[Interim] Hospital Order

Family Law Act 1996

Applicant

Ref.

Respondent

Ref.

The Court orders that the respondent whose address is

be admitted to and detained in the following hospital

[(name and address)]

]

[and that the respondent be conveyed there by

]

[The Court directs that]

pending admission to that hospital within the period of 28 days the respondent shall be detained at a place of safety, namely:

]

[and shall be conveyed there by

]

The Court found that the respondent had breached one or more of the following:

- an occupation order
- a non-molestation order
- an exclusion requirement included by virtue of section 38A of the Children Act 1989 in an interim care order made under section 38 of that Act
- an exclusion requirement included by virtue of section 44A of the Children Act 1989 in an emergency protection order under section 44 of that Act.

The Court [heard] [considered]

the [written] evidence of two medical practitioners, namely

as required by the provisions of section 37 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [severe mental impairment] within the meaning of that Act.

The Court was satisfied that

- all other conditions, which under section [37] [38] of the Mental Health Act 1983 are required to be satisfied for the making of [a] [an interim] hospital order, are satisfied in respect of the respondent
- arrangements have been made for the respondent's admission to the hospital named above within 28 days of the date of this order.

Ordered by [Mr] [Mrs] Justice
 [His] [Her] Honour Judge
 District Judge [of the Family Division]
 Justice[s] of the Peace
 [Assistant] Recorder

on

FL413 Hospital Order

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



In the

Case Number

Guardianship Order

Family Law Act 1996

Applicant

Ref.

Respondent

Ref.

The Court orders that the respondent whose address is

be placed under the guardianship of

[social services authority]
[being a person approved by social services authority]

The Court found that the respondent had breached one or more of the following:

- an occupation order
a non-molestation order
an exclusion requirement included by virtue of section 38A of the Children Act 1989 in an interim care order made under section 38 of that Act
an exclusion requirement included by virtue of section 44A of the Children Act 1989 in an emergency protection order under section 44 of that Act.

The Court [heard] [considered]

the [written] evidence of two medical practitioners, namely

as required by the provisions of section 37 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [severe mental impairment] within the meaning of that Act.

The Court was satisfied that

- all other conditions, which under section [37] of the Mental Health Act 1983 are required to be satisfied for the making of a guardianship order, are satisfied in respect of the respondent
the [authority] [person] specified above is willing to receive the respondent into guardianship.

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
District Judge [of the Family Division]
Justice[s] of the Peace
[Assistant] Recorder

on

FL414 Guardianship Order

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

Statement of Service <i>Family Law Act 1996 (Part IV)</i>	Case number
The court at which your case is being heard	Applicant <i>Ref.</i>
	Respondent <i>Ref.</i>

- You must**
- give details of service of the application on each of the other parties
 - give details of service on the mortgagee or landlord of the dwelling-house (if appropriate)
 - file this form with the court on or before the first Directions Appointment or Hearing of the Proceedings

You should if the person's solicitor was served, give his or her name and address

You must indicate the manner, date, time and place of service
or where service was effected by post, the date, time and place of posting

Name and address of person served	Means of identification of person, and how, when and where served	Prescribed forms served

I have served the [application] [Notice of Proceedings] as stated above.
I am the [applicant] [solicitor for the applicant] [other] (*state*)

Signed

Date:

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



In the

Case Number

Notice to Mortgagees and Landlords

Family Law Act 1996

Applicant

Ref.

Respondent

Ref.

Notice to

concerning the
dwelling-house at

Take Notice

that an [application] [order] has been made in proceedings under the Family Law Act 1996 which affects the occupation of the above dwelling-house and the payment of the [mortgage] [rent] thereon.
[A copy of the order is attached.]

[The next hearing is

at

on _____ at [am] [pm]

What you may
do next

If either the applicant or respondent has matrimonial home rights:
you may apply to be made a party to these proceedings if you wish to do so.

If neither the applicant nor the respondent has matrimonial home rights, or you do not wish to be made a party:

you may make representations to the court about these proceedings.
This should be done in writing to the court where the proceedings are taking place.
If you write to a county court or the High Court, your letter should be addressed to The Court Manager. If you write to a magistrates' court your letter should be addressed to the Clerk to the Justices.

Signed

Date

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



In the

Case Number

Transfer of Proceedings to [the High Court]
[a county court] [a family proceedings court]

Family Law Act 1996

Applicant
Ref.
Respondent
Ref.

The Court orders that these proceedings be transferred to the

[High Court] [County Court] [Family Proceedings Court]

because

The next [hearing]
[directions
appointment] is

at

on

at [am] [pm]

Please address all future
correspondence to

Ordered by [Mr] [Mrs] Justice
[His] [Her] Honour Judge
[Deputy] District Judge [of the Family Division]
Justice[s] of the Peace
[Assistant] Recorder
Clerk of the Court

on

FL417 Transfer of Proceedings

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

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules 1991 so as to—

- (a) provide for the making of applications under Part IV of the Family Law Act 1996 and for bringing appeals against orders made on such applications (rules 2 and 5 to 7, 8(b), 8(c) and 9);
- (b) make provision where the court includes an exclusion requirement in an interim care order or an emergency protection order (rules 3 and 4, 8(a));
- (c) require a petitioner to produce the written consent of the respondent to the grant of a divorce decree before the court will direct that, in the absence of an acknowledgement of service, the respondent has been duly served (rule 10);
- (d) make some minor corrections (rules 11, 14, 15 and 19);
- (e) prevent the statement of arrangements for the children being available for inspection (rule 12);
- (f) define the period for which a cause is to be treated as pending for the purposes of rule 2.40(1) (which requires applications relating to children to be made in the cause where a cause is pending) (rule 13);
- (g) require applications under the Hague Convention and the European Convention (within the meaning of the Child Abduction and Custody Act 1985 (c. 60)) to be issued out of the principal registry of the Family Division in London (rule 16);
- (h) make some minor amendments to rule 7.2 (committal and injunction) in its application to proceedings in the principal registry of the Family Division (rule 17); and
- (i) enable the court to direct a next friend or guardian ad litem to take part in proceedings where the court is considering whether to allow a minor to proceed without such a person (rule 18).