
STATUTORY INSTRUMENTS

1998 No. 1071

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

Occupation orders

Occupation orders where applicant has estate, etc. or has^[F1] home rights]

11.—(1) If—

- (a) a person (“the person entitled”)—
 - (i) is entitled to occupy a dwelling-house by virtue of a beneficial estate or a contract or by virtue of any statutory provision giving him the right to remain in occupation, or
 - (ii) has^[F1] home rights] in relation to a dwelling-house, and
- (b) the dwelling-house—
 - (i) is or at any time has been the home of the person entitled and of another person with whom he is associated, or
 - (ii) was at any time intended by the person entitled and any such other person to be their home,

the person entitled may apply to the court for an order containing any of the provisions specified in paragraphs (3), (4) and (5).

(2) If an agreement to marry is terminated, no application under this Article may be made by virtue of Article 3(3)(e) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.

[^{F1}(2A) If a civil partnership agreement (within the meaning of the Civil Partnership Act 2004) is terminated, no application under this Article may be made by virtue of Article 3(3)(eza) by reference to that agreement after the end of the period of three years beginning with the day on which it is terminated.]

(3) An order under this Article may—

- (a) enforce the applicant's entitlement to remain in occupation as against the other person (“the respondent”);
- (b) require the respondent to permit the applicant to enter the dwelling-house or part of the dwelling-house;
- (c) require the respondent to permit the applicant to have peaceful use and enjoyment of the dwelling-house or part of the dwelling-house;
- (d) regulate the occupation of the dwelling-house by either or both parties;
- (e) if the respondent is entitled as mentioned in paragraph (1)(a)(i), prohibit, suspend or restrict the exercise by him of his right to occupy the dwelling-house;
- (f) if the respondent has^[F1] home rights] in relation to the dwelling-house and the applicant is the other spouse^[F1] or civil partner], restrict or terminate those rights;

Changes to legislation: Family Homes and Domestic Violence (Northern Ireland) Order 1998, Section 11 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (g) require the respondent to leave the dwelling-house or part of the dwelling-house;
 - (h) provide for the respondent to remove from the dwelling-house or part of the dwelling-house personal effects or any furniture or other contents of a kind specified in the order;
 - (i) exclude the respondent from a defined area in which the dwelling-house is included, any other defined area and any premises; or
 - (j) restrain the respondent from disposing of any estate he has in the dwelling-house (“disposing” for this purpose including any dealing mentioned in paragraphs (a) to (f) of section 45(3) of the Interpretation Act (Northern Ireland) 1954).
- (4) An order under this Article may declare that the applicant is entitled as mentioned in paragraph (1)(a)(i) or has^[F1] home rights].
- (5) If the applicant has^[F1] home rights] and the respondent is the other spouse^[F1] or civil partner], an order under this Article made during the marriage^[F1] or civil partnership] may provide that those rights are not brought to an end by—
- (a) the death of the other spouse^[F1] or civil partner]; or
 - (b) the termination (otherwise than by death) of the marriage^[F1] or civil partnership].
- (6) In deciding whether to exercise its powers under paragraph (3) and (if so) in what manner, the court shall have regard to all the circumstances including—
- (a) the housing needs and housing resources of each of the parties and of any relevant child;
 - (b) the financial resources of each of the parties;
 - (c) the likely effect of any order, or of any decision by the court not to exercise its powers under paragraph (3), on the health, safety or well-being of the parties and of any relevant child; and
 - (d) the conduct of the parties in relation to each other and otherwise.
- (7) If it appears to the court that the applicant or any relevant child is likely to suffer significant harm attributable to conduct of the respondent if an order under this Article containing one or more of the provisions mentioned in paragraph (3) is not made, the court shall make the order unless it appears to it that—
- (a) the respondent or any relevant child is likely to suffer significant harm if the order is made; and
 - (b) the harm likely to be suffered by the respondent or child in that event is as great as, or greater than, the harm attributable to conduct of the respondent which is likely to be suffered by the applicant or child if the order is not made.
- (8) The court may exercise its powers under paragraph (5) in any case where it considers that in all the circumstances it is just and reasonable to do so.
- (9) An order under this Article—
- (a) may not be made after the death of either of the parties mentioned in paragraph (1); and
 - (b) except in the case of an order made by virtue of paragraph (5)(a), ceases to have effect on the death of either party.
- (10) An order under this Article may, in so far as it has continuing effect, be made for a specified period, until the occurrence of a specified event or until further order.

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 2(3)(j) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 52\(b\)](#)
- art. 3(7)(8) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 53\(c\)](#)