

SCHEDULE 2

Rule 13(b)

FORM F1 APPLICATION FOR TRANSFER OF TENANCY Family Homes and Domestic Violence (Northern Ireland) Order 1998

[In the High Court of Justice in Northern Ireland]

[In the Divorce County Court for the Division of]

[In the Family Care Centre at]

Applicant

Respondent

To

Concerning the dwelling House at

Take Notice that has applied to the court for an order for the transfer of the [protected or secure] [statutory] tenancy which governs the occupation of the above dwelling house.

About the Hearing

You should attend when the court hears the application at:

on

at [a.m.] [p.m.]

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

FORM F2 APPLICATION FOR A NON-MOLESTATION ORDER/AN OCCUPATION ORDER Family Homes and Domestic Violence (Northern Ireland) Order 1998

Status: This is the original version (as it was originally made).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 High Court of Justice in Northern Ireland]

[In the Divorce County Court for the Division of _____]

[In the Family Care Centre at _____]

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

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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
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).
-

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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:

(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 occupy the dwelling house: Yes No
If yes, explain why:

On the basis of your answer to (C) and (D) above, tick one of 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 cohabitee or former cohabitee with no existing right to occupy, where the respondent cohabitee or former cohabitee 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 cohabitee or former cohabitee who is not entitled to occupy, where the respondent cohabitee or former cohabitee is also not entitled.

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 Folio 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:

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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:

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

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 C5. 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.

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 sexual abuse and forms of ill-treatment which are not physical. 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.

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.

Cohabiters 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.

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 affinity) 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

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Section 4 (continued)

example, your cohabitee's father or brother).

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 (Northern Ireland) Order 1995, 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 (Northern Ireland) Order 1995.

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 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.

(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, cohabitee or former cohabitee of the respondent, you will only be able to apply for an occupation order if you fall within this category.*

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Section 6 (continued)

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 Article 11 of the Order of 1998 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*
- *require the respondent to permit the applicant to have peaceful use and enjoyment of 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, 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*
- *provide for the respondent to remove from the dwelling house or part of it personal effects or furniture or other contents which are specified in the order*
- *exclude the respondent from a defined area around the dwelling house or any other defined area or premises*
- *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*
- *restrain the respondent from disposing of any estate he has in the dwelling house.*

If you have ticked box 2 or box 3 above

(a) an order under Article 13 or 14 of the Order of 1998 must

(i) if the applicant is in occupation—

- *give the applicant the right not to be evicted or excluded from the dwelling house or any part of*

Section 6 (continued)

- *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 Article 26 of the Marrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc.)*
- *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 para 2(2)(d) or (e) of Schedule 1 to the Children (Northern Ireland) Order 1995 or relating to the legal or beneficial ownership of the dwelling house.*

or under para 2(2)(d) or (e) of Schedule 1 to the Children (Northern Ireland) Order 1995 (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*
- *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 or any part of it 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*

Section 7

Under Article 18 of the Order of 1998 the court may make the following additional orders when making an occupation order:

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- *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*
- *prohibit either party from damaging or interfering with services in the dwelling house or any premises specified in the order*
- *order either party to repair damage or restore services to the dwelling house*
- *order either party to pay to the other party or another person a sum specified in the order where that party has damaged premises, specified in the order or contents of those premises or damaged or interfered with services in those premises.*

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 F2. 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.

FORM F3

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 High Court of Justice in Northern Ireland]

[In the Divorce County Court for the
Division of]

[In the Family Care Centre at]

NOTICE OF PROCEEDINGS

has applied to the court for an order.

About the Hearing

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.

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 Law Society.
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. |
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Note 4	To the respondent	<p>the following information only applies if the applicant has applied for an occupation order</p> <p>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:</p> <ul style="list-style-type: none">● 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. <p>If the applicant has ticked box 2, the court will need any available evidence of:</p> <ul style="list-style-type: none">● 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 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● the existence of any pending proceedings between you and the applicant:<ul style="list-style-type: none">under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc)orunder para 2(2)(d) or (e) of Schedule 1 to the Children (Northern Ireland) Order 1995 (orders for financial relief against parents)orrelating to the legal or beneficial ownership of the dwelling house. <p>If the applicant has ticked box 3, the court will need any available evidence of:</p>
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-
- 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 para 2(2)(d) or (e) of Schedule 1 to the Children (Northern Ireland) Order 1995, or relating to the legal or beneficial ownership of the dwelling house.

FORM F4STATEMENT OF SERVICE

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 High Court of Justice in Northern Ireland]

[In the Divorce County Court for the Division of]

[In the Family Care Centre at]

Applicant
Respondent

- 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 date fixed for 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

FORM F5NOTICE TO MORTGAGEES AND LANDLORDSFAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER 1998

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 High Court of Justice in Northern Ireland]
[In the Divorce County Court for the
Division of _____]
[In the Family Care Centre at _____]

Applicant
Respondent

Notice to _____
concerning the dwelling house at _____

Take Notice _____
that an [application] [order] has been made in
proceedings under the Family Homes and Domestic
Violence (Northern Ireland) Order 1998 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.

Signed _____
Date _____

FORM F6IN THE MATTER OF THE FAMILY HOMES AND DOMESTIC VIOLENCE
(NORTHERN IRELAND) ORDER 1998

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 High Court of Justice in Northern Ireland]

[In the Divorce County Court for the
Division of]

[In the Family Care Centre at]

[Order]

Ordered by

on

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, or an Advice Centre. 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 may be guilty of an offence, and you may be sent to prison and/or fined.

FORM F8 **Application to vary, extend or discharge an order** IN THE MATTER OF THE FAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER 1998

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 High Court of Justice in Northern Ireland]

[In the Divorce County Court for the
Division of]

[In the Family Care Centre at]

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 C5 (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:

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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

FORM F9IN THE MATTER OF THE FAMILY HOMES AND DOMESTIC VIOLENCE
(NORTHERN IRELAND) ORDER 1998

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 High Court of Justice in Northern Ireland]

[In the Divorce County Court for the Division of _____]

[In the Family Care Centre at _____]

Order Transfer of proceedings to [the High Court]
 [the Divorce County Court for the Division of _____]
 [the Family Care Centre at _____]
 [the court of summary jurisdiction at _____]

Applicant

Respondent

The court orders that these proceedings be transferred to the
 [High Court] [County Court] [Court of summary jurisdiction]
because

The next hearing is at _____
 on _____ at [am] [pm]

Please address all future
correspondence to _____

Ordered by _____

on _____