

2005 No. 559

MAGISTRATES' COURTS

**The Magistrates' Courts (Miscellaneous Amendments) Rules
(Northern Ireland) 2005**

Made - - - - - *12th December 2005*

Coming into operation *6th January 2006*

The Lord Chancellor makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a), Article 165 of the Children (Northern Ireland) Order 1995(b) and all other powers enabling him in that behalf. In accordance with Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, he makes the Rules on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice.

PART I

CITATION AND COMMENCEMENT

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2005 and shall come into operation on 6th January 2006.

PART II

AMENDMENT TO THE MAGISTRATES' COURTS (CHILDREN (NORTHERN IRELAND) ORDER 1995) RULES (NORTHERN IRELAND) 1996

2. The Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996(c) ("the Children Order Rules 1996") are amended as follows.

3. In rule 1 (Citation, commencement and interpretation), in paragraph (3)—

(a) after the definition of "business day" insert—

“the Central Authority for Northern Ireland” means the Northern Ireland Court Service;”;

(a) S.I. 1981 No. 1675 (N.I. 26)

(b) S.I. 1995 No. 755 (N.I. 2)

(c) S.R. 1996 No. 323 as amended by S.R. 1999 No. 63 and S.R. 1999 No. 223

(b) after the definition of “child” insert—

“the Council Regulation” means Council Regulation (EC) 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility;” and

(c) after the definition of “leave” insert—

““Member State” means—

(a) those parties contracting to the Council Regulation, that is to say, Belgium, Cyprus, Czech Republic, Germany, Greece, Spain, Estonia, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Austria, Poland, Portugal, Slovakia, Slovenia, Finland, Sweden and the United Kingdom; and

(b) a party which has subsequently adopted the Council Regulation;”.

4. In rule 4 (Application), in paragraph (1), after “Forms” insert “C1AA or”.

5. In rule 5 (Ex parte application), in paragraph (2)(a), after “Forms” insert “C1AA or”.

6. In rule 10 (Acknowledgement of application), after “Form C4” insert “and, if both parts of question 6 or question 7 (or both) on Form C4 are answered in the affirmative, Form C1AA.”.

7. After rule 21, insert the following new rules—

“Application by a party for transfer of proceedings to a court of another Member State

21A.—(1) A party may make an application that proceedings, or a specific part of those proceedings, be heard in another Member State pursuant to Article 15 of the Council Regulation.

(2) An application under paragraph (1) shall be made—

(a) to the court in which the relevant parental responsibility proceedings (within the meaning of the Council Regulation) are pending; and

(b) in Form C1 or C2 as appropriate; and

(c) where the application is made in Form C2 it shall be filed and served on the respondents not less than 5 business days before the hearing of the application.

(3) An application under paragraph (1) shall be supported by a written statement, which shall contain evidence of the child’s particular connection to the other Member State in accordance with Article 15(3) of the Council Regulation.

(4) The respondents referred to in paragraph (2)(c) are any other parties, the child and the Central Authority of the relevant Member State.

(5) In this rule references to “the child” are references to the child who is the subject of the parental responsibility proceedings.

Application by a court of another Member State for transfer of proceedings

21B.—(1) A court of another Member State may make an application that proceedings, or a specific part of those proceedings, be heard in that Member State pursuant to Article 15 of the Council Regulation.

(2) An application under paragraph (1) shall be made in the first instance to the Central Authority of Northern Ireland.

(3) The Central Authority of Northern Ireland shall forward an application made under paragraph (1) to the court in which the parental responsibility proceedings are pending.

(4) Upon receipt of such an application the clerk of petty sessions shall serve a copy of the application on all other parties in Northern Ireland not less than 5 business days before the hearing of the application.

(5) A decision to accept or refuse jurisdiction under Article 15 of the Council Regulation shall be served on all parties, the Central Authority of the relevant Member State and the Central Authority of Northern Ireland. Service on a Central Authority of another Member State shall be made by the Central Authority for Northern Ireland.

A certified copy of a judgment or a certificate for enforcement in other Member State

21C.—(1) An application for a certified copy of a judgment or certificate referred to in Article 39 or 41 of the Council Regulation shall be made to the court which made the order by written statement without notice being served on any other party.

(2) A written statement by which an application for a certified copy of a judgment is made shall—

- (a) give particulars of the proceedings in which the judgment was obtained;
- (b) have annexed to it—
 - (i) a copy of the application by which the proceedings were begun;
 - (ii) evidence of service on the respondent;
 - (iii) copies of the documents filed in the proceedings, if any; and
 - (iv) a statement of the grounds on which the judgment was based together, where appropriate, with any document showing that the applicant is entitled to legal aid or assistance by way of representation for the purposes of the proceedings;
- (c) state whether or not the respondent did or did not object to the jurisdiction, and if so, on what grounds;
- (d) show that the judgment has been served in accordance with rule 9 and is not subject to any order for the stay of proceedings;
- (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the judgment has been given; and
- (f) state—
 - (i) whether the judgment provides for the payment of a sum of money;
 - (ii) whether interest is recoverable on the judgment or part thereof and if so, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue.

(3) A written statement by which an application for a certificate is made shall give—

- (a) particulars of the proceedings in which the judgment was obtained;
- (b) the full name, county and the date and place of birth of the parties;
- (c) details of the type of certificate applied for and the reasons for making the application; and
- (d) where the application is for a certificate under Annex II to the Council Regulation—
 - (i) the full name and, if known, the address and the date and place of birth of any other persons with parental responsibility;
 - (ii) information as to whether or not the judgment entails the return of a child wrongfully removed or retained in another Member State and, if so, the full name and address of the person to whom the child should be returned.

(4) The certified copy of the judgment shall be an office copy signed by the resident magistrate and there shall be issued with a copy of the judgment a certified copy of any order which has varied any of the terms of the original order.

Rectification of certificates issued under Article 41

21D.—(1) The court may rectify an error in a certificate issued under Article 41.

(2) The court may rectify the certificate of its own motion or pursuant to an application made by any party to the proceedings, or the court or Central Authority or another Member State.”.

8. In Schedule 1 (Forms)—

- (a) in Form C1 (Application for an order)—
- (i) before paragraph 1 insert the following note—
- “**Important Note: you should only answer question 6A** if you are asking the court to make an Article 8 order.”;
- (ii) after paragraph 6 insert the following new paragraph—
- “**6A. Domestic abuse, violence or harm**
- Do you believe that the child(ren) named above have suffered or are at risk of suffering any harm from any of the following or through seeing or hearing any of the following:
- any form of domestic abuse
 - violence within the household
 - other conduct or behaviour
 - ill treatment of another person
- by any person who is or who has been involved in caring for the child(ren) or lives with, or has contact with, the child(ren)?
- Please tick the box which applies Yes No
- If you tick the Yes box, you must also fill in Supplemental Information Form (Form C1AA).** You can obtain a copy of this from a court office if one has not been enclosed with the papers served on you.”; and
- (iii) in paragraph 9—
- (aa) for “mother and father” substitute “parents”; and
- (bb) after “married to each other” insert “or civil partners of each other”;
- (b) after Form C1 insert the new Form C1AA set out in Schedule 1 to these Rules;
- (c) in Form C2 (Application)—
- (i) before paragraph 1 insert the following note—
- “**Important Note: you should only answer question 3A** if you are asking the court to make an Article 8 order.”; and
- (ii) after paragraph 3 insert the following new paragraph—
- “**3A. Domestic abuse, violence or harm**
- Do you believe that the child(ren) named above have suffered or are at risk of suffering any harm from any of the following or through seeing or hearing any of the following:
- any form of domestic abuse
 - violence within the household
 - other conduct or behaviour
 - ill treatment of another person
- by any person who is or who has been involved in caring for the child(ren) or lives with, or has contact with, the child(ren)?
- Please tick the box which applies Yes No
- If you tick the Yes box, you must also fill in Supplemental Information Form (Form C1AA).** You can obtain a copy of this from a court office if one has not been enclosed with the papers served on you.”;
- (d) for Form C4 (Acknowledgement) substitute the new Form C4 set out in Schedule 2 to these Rules;
- (e) in Form C7A (Statement of Means)—
- (i) in paragraph 1, after “married” insert “in a civil partnership,”; and
- (ii) in paragraph 2, after “spouse” insert “civil partner,”; and
- (f) in Form C39 for “Article 7” substitute “Article [7(1)][7(1A)]”.

9. In Schedule 2 (Notices and Respondents), in the entry relating to Article 7(1)(a), 7(4), 8 etc. for “7(1)(a)” substitute “7(1)(c), 7(1A)”.

PART III

AMENDMENT TO THE MAGISTRATES’ COURTS (DOMESTIC PROCEEDINGS) RULES (NORTHERN IRELAND) 1996

10. The Magistrates’ Courts (Domestic Proceedings) Rules (Northern Ireland) 1996(a) (“the Domestic Proceedings Rules 1996”) are amended as follows.

11. In rule 1 (Citation, commencement and interpretation), in paragraph (2)—

(a) for “(aaa)” substitute “(ab)”;

(b) after that sub-paragraph insert—

“(ac) “the Act of 2004” means the Civil Partnership Act 2004;”.

12. In rule 3 (Application under Article 4)—

(a) in the heading, after “Article 4” insert “of the Order or Part 1 of Schedule 16 to the Act of 2004”;

(b) in paragraph (1), after “Article 4” insert “of the Order or Part 1 of Schedule 16 to the Act of 2004”;

(c) after paragraph (2) insert—

“(2A) Where an application under paragraph 1(c) of Schedule 16 to the Act of 2004 alleges such behaviour by the respondent that the applicant cannot reasonably be expected to live with the respondent, particulars of the alleged behaviour shall not be stated in the summons, but, where the respondent or his solicitor, in writing, requests any such particulars, the applicant shall forthwith furnish particulars, in writing to the respondent or his solicitor and to the clerk of petty sessions.”; and

(d) in paragraph (3), after “Form D1” insert “or Form D1A, as the case may be,”.

13. In rule 4 (Application for order under Article 8 (orders for payments agreed by parties))—

(a) in the heading, after “Article 8” insert “of the Order or Part 2 of Schedule 16 to the Act of 2004”;

(b) in paragraph (1), after “Article 8” insert “of the Order or Part 2 of Schedule 16 to the Act of 2004”;

(c) in paragraph (3), after “Article 8(9)(a) and (b)” insert “of the Order or paragraph 11(2)(a) and (b) of Schedule 16 to the Act of 2004”;

(d) in paragraph (4), after “Article 8(9)(c)” insert “of the Order or paragraph 11(2)(c) of Schedule 16 to the Act of 2004; and

(e) in paragraph (6), after “Article 8(9)” insert “of the Order or paragraph 11 of Schedule 16 to the Act of 2004”.

14. In rule 5 (Application for order under Article 9 (orders for payments where parties are living apart by agreement))—

(a) in the heading, after “Article 9” insert “of the Order or Part 3 of Schedule 16 to the Act of 2004”;

(b) in paragraph (1), after “Article 9” insert “of the Order or Part 3 of Schedule 16 to the Act of 2004”; and

(c) after paragraph (3) insert—

(a) S.R. 1996 No. 324 as amended by S.R. 1997 No. 538, S.R. 1999 No. 62 and S.R. 2000 No. 300

“(3A) Where under paragraph 18 of Schedule 16 to the Act of 2004 the court decides to treat such an application as if it were an application under Part 1 of that Schedule the court shall state which of grounds (a) or (b) of sub-paragraph (1) of that paragraph is considered applicable and a note of the decision and the grounds therefore shall be entered in the Order Book.”.

15. In rule 6 (Lodgement of birth certificate)—

- (a) after “Articles 4, 8 or 9” insert “of the Order or under Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”;
- (b) omit “such”;
- (c) after “Article 22” insert “of the Order or paragraph 30 of Schedule 16 to the Act of 2004”;
- (d) for “review” substitute “revival”; and
- (e) after “Article 22B” insert “of the Order or paragraph 30 of Schedule 16 to the Act of 2004”.

16. In rule 8 (Form of Order), in paragraph (1), after “Articles 4, 8 or 9” insert “of the Order or Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”.

17. In rule 8A (Variation of means of payment order), after “Article 86(4) of the 1981 Order” insert “or paragraph 36(1) of Schedule 16 to the Act of 2004”.

18. In rule 9 (Notice of court’s powers under the Children (Northern Ireland) Order 1995)—

- (a) after “Articles 4, 8 or 9” insert “of the Order or Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”; and
- (b) after “marriage” insert “or civil partnership”.

19. In rule 15 (Transfer of proceedings for order under Article 4, 8, 9 or 18)—

- (a) in the heading, after “Articles 4, 8, 9 or 18” insert “of the Order or Parts 1, 2 or 3 of Schedule 16 to the Act of 2004”;
- (b) after paragraph (1) insert—

“(1A) Where an application is made for an order under Parts 1, 2 or 3 of Schedule 16 to the Act of 2004 and as a consequence a summons is issued, then, on an application made by the respondent in accordance with paragraph (2) the court may, if it appears that the case could more conveniently be heard in another court of summary jurisdiction having jurisdiction to hear it by virtue of Article 32(1) of the Order, as applied to those proceedings by paragraph 46 of Schedule 16 to the Act of 2004, determine that the proceedings shall be removed to that other court.”;

- (c) in paragraph (2), after “paragraph (1)” insert “or (1A)”; and
- (d) in paragraph (4), after “paragraph (1)” insert “or (1A)”.

20. In rule 16 (Entries in the Order Book)—

- (a) in paragraph (1), after “Article 24” insert “of the Order or paragraph 41 of Schedule 16 to the Act of 2004”; and
- (b) in paragraph (2), after “Article 30(1)” insert “of the Order or a civil partnership proceedings county court under Article 30(1) of the Order as applied by paragraph 46 of Schedule 16 to the Act of 2004”.

21. In Schedule 1 (Forms)—

- (a) after Form D1 insert the new Form D1A set out in Schedule 3 to these Rules;
- (b) in Form D2 (Summons to Respondent on application for order for payments agreed by parties)—
 - (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8: Rule 4(2))” substitute—

- “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 8: Rule 4(2))]
[CIVIL PARTNERSHIP ACT 2004
(Part 2 of Schedule 16: Rule 4(2))]***; and
- (ii) for “Article 8 of the above-mentioned Order” substitute “[Article 8 of the above-mentioned Order] [Part 2 of Schedule 16 to the above-mentioned Act]***;”
- (c) In Form D3 (Respondent’s consent to Article 8 order and statement of financial resources)—
- (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8(9): Rule 4(3))” substitute—
- “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 8(9): Rule 4(3))]
[CIVIL PARTNERSHIP ACT 2004
(Part 2 of Schedule 16: Rule 4(3))]***;”
- (ii) in the title, for “**Article 8 order**” substitute “[**Article 8 order**] [**Part 2 order**]***; and
- (iii) for “Article 8 of the above-mentioned Order” substitute “[Article 8 of the above-mentioned Order] [Part 2 of Schedule 16 to the above-mentioned Act]***;”
- (d) in Form D3A (Declaration of Financial Resources of Child), for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 8(9): Rule 4(4))” substitute—
- “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 8(9): Rule 4(4))]
[CIVIL PARTNERSHIP ACT 2004
(Paragraph 11 of Schedule 16: Rule 4(4))]***;”
- (e) in Form D4 (Summons to Respondent on application for order for payments where parties are living apart by agreement)—
- (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 9: Rule 5(2))” substitute—
- “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 9: Rule 5(2))]
[CIVIL PARTNERSHIP ACT 2004
(Part 3 of Schedule 16: Rule 5(2))]***; and
- (ii) for “Article 9 of the above Order” substitute “[Article 9 of the above Order] [Part 3 of Schedule 16 to the above Act]***;”
- (f) in Form D5 (Notice to Respondent of decision to treat application for order under Article 9 as application for order under Article 4)—
- (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 9: Rule 5(4))” substitute—
- “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 9: Rule 5(4))]
[CIVIL PARTNERSHIP ACT 2004
(Paragraph 18 of Schedule 16: Rule 5(4))]***;”
- (ii) in the title, for “**Article 9 as application for order under Article 4**” substitute “[**Article 9 as application for order under Article 4**] [**Part 3 of Schedule 16 to the Act of 2004 as application for order under Part 1 of Schedule 16**]***;”
- (iii) for “Article 9 of the above-mentioned Order” substitute “[Article 9 of the above-mentioned Order] [Part 3 of Schedule 16 to the above-mentioned Act]***;”

- (iv) for “Article 9(4)” substitute “[Article 9(4)] [Paragraph 18 of Schedule 16 to the Act of 2004]*”;
 - (v) for “Article 4” substitute “[Article 4] [Part 1 of Schedule 16 to the Act of 2004]*”; and
 - (vi) for “Article 9” substitute “[Article 9] [Paragraph 18 of Schedule 16 to the Act of 2004]*”;
- (g) in Form D6 (Order for financial provision)—
- (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Articles 4, 8 and 9: Rule 8(1))” substitute—
 - “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Articles 4, 8 and 9: Rule 8(1))]
[CIVIL PARTNERSHIP ACT 2004
(Parts 1, 2 and 3 of Schedule 16: Rule 8(1))]*”; and
 - (ii) for “Article [4] [8] [9] of the above-mentioned Order” substitute “[Article [4] [8] [9] of the above-mentioned Order] [Part [1] [2] [3] of Schedule 16 to the above-mentioned Act]*”;
- (h) in Form D7 (Notice of courts powers with respect to children under the Children (Northern Ireland) Order 1995)—
- (i) for “DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980 (Article 10: Rule 9)” substitute—
 - “[DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 10: Rule 9)]
[CIVIL PARTNERSHIP ACT 2004
(Paragraph 45 of Schedule 16: Rule 9)]*”; and
 - (ii) for “Domestic Proceedings (Northern Ireland) Order 1980 substitute “[Domestic Proceedings (Northern Ireland) Order 1980] [Civil Partnership Act 2004]*”; and
 - (iii) at the end insert “*Delete whichever is inappropriate”.
- (i) for Form F1 (Application for a non-molestation order/an occupation order) substitute the new Form F1 set out in Schedule 4 to these Rules;
- (j) in Form F2 (Summons to Respondent on an application under the Family Homes and Domestic Violence (Northern Ireland) Order 1998), in note 4—
- (i) for “**box 1, 4 or 5**” substitute “**box 1, 4, 5 or 6**”;
 - (ii) for “the length of time that has elapsed since the marriage was dissolved or annulled” substitute—
 - “• where you and the applicant were married, the length of time that has elapsed since the marriage was dissolved or annulled
 - where you and the applicant were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership”;
 - (iii) after “divorce proceedings etc.” insert “or under Part 2 of Schedule 15 to the Civil Partnership Act 2004 (Property adjustment on or after dissolution, nullity or separation)”; and
 - (iv) after “husband and wife” insert “or civil partners”; and
- (k) in Form F3 (Notice to Mortgagees and Landlords), omit “**matrimonial**” in each place it appears.

PART IV
TRANSITIONAL PROVISION

Transitional Provision

22.—(1) Where proceedings have been commenced before the date on which these Rules come into operation, the Children Order Rules 1996 and the Domestic Proceedings Rules 1996 shall apply to those proceedings as if these Rules had not been made.

(2) Notwithstanding paragraph (1), in proceedings commenced before these Rules come into operation, where the Children Order Rules 1996 and the Domestic Proceedings Rules 1996 require the use of any form, that form may be used in those proceedings as amended or substituted by these Rules.

Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under-Secretary of State, Department for Constitutional Affairs

Dated 12th December 2005

FORM TO BE INSERTED IN THE MAGISTRATES' COURTS (CHILDREN
(NORTHERN IRELAND) ORDER 1995) RULES (NORTHERN IRELAND) 1996

"FORM C1AA
SUPPLEMENTAL INFORMATION FORM

Children (Northern Ireland) Order 1995
Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996
of [Petty Sessions District of]
Applicant [Family Proceedings Court at]
of
Respondent County Court Division of

Important Note

Please read the accompanying Notes for Guidance before completing this form.

Section 1 About you (the person completing this form)

State

- *your title, full name, address, telephone number, date of birth and relationship to each child above*
- *your solicitors name, address, reference, telephone, FAX and DX numbers.*

Section 2 Respondent's comments on allegations made by the Applicant

About this section:

- *Go straight to Section 3 below (Further information) if:*
 - (a) *you are the **Applicant**; or*
 - (b) *you are the **Respondent** and the Applicant has not filed a Form C1AA Supplemental Information Form with his or her application.*
- *This section of the form should only be completed **by the Respondent** where the Applicant has served a completed Form C1AA with his or her application for an order.*
- ***You do not have to complete this section unless you wish to comment on any information given by the Applicant in his or her Form C1AA.** This section should not be used to comment on any other information given by the Applicant in his or her application.*
- ***Please comment in summary form only.** You will have an opportunity to make a detailed statement later in the proceedings.*

Comments on allegations made by the Applicant:

Section 3 Further Information

1. Involvement with any outside authorities and organisations

If as a result of any incidence of domestic abuse, other harm or risk of harm to you or the child(ren) there is, has been or there is pending any known involvement with the police, social services, mental health services or other support services in respect of:

- *any child(ren) whose name(s) is/are given at the top of this form;*
- *a full, half or step brother or sister of a child(ren) whose name(s) is/are given at the top of this form; or*
- *a person who is or has been involved in caring for the child(ren) or is having or has had contact with the child(ren) whose name(s) is/are given at the top of this form please provide details and identify;*
- *which agency or service has been involved;*
- *the name of the person who has been the main contact in that agency or service;*
- *the date or dates of any involvement;*
- *whether there is any current or continuing involvement;*
- *whether or not you have any documents, reports or correspondence relating to the agency or service's involvement.*

2. Incidents of abuse, violence or harm

For each alleged incidence of violence, domestic abuse or harm, please provide in summary form the following information:

- *the date(s) on which the incident occurred;*
- *the nature and seriousness of the alleged abuse, violence or harm;*
- *by whom and against whom it was directed;*
- *how frequently the alleged abuse, harm or violence occurred and the date(s) of the most recent occurrence(s);*
- *whether any hospital or medical treatment has been sought by the child(ren) whose name(s) is/are given at the top of this form, the applicant or other person in respect of any injuries sustained; and*
- *whether you consider there is a likelihood of further harm, abuse or violence occurring.*

3. Involvement of the child(ren)

If the child(ren) whose name(s) is/are given at the top of this form have seen or heard any alleged incidents of abuse within the household or been aware of any alleged abuse and its impact on the family, please give details and in particular state how you believe the child(ren) have been affected by this experience:

4. Witnesses

Has anyone else seen, heard or had reported to them any alleged incidence of violence, domestic abuse or harm? If Yes, would that person be able to provide supporting evidence?

5. Medical treatment or other assessment of the child(ren)

If any child(ren) whose name(s) is/are given at the top of this form have been referred for treatment or psychiatric or psychological assessment, by any medical or health service relating to his/her emotional, social or behavioural development (or where any such treatment or referral is pending) please state:

- *when and to whom such a referral was made;*
- *details of any treatment or assessment recommended;*
- *whether there is any continuing involvement with the relevant service in relation to the referral; and*
- *whether you are aware of or have in your possession any reports or other correspondence in relation to any treatment or assessment recommended.*

6. Steps or orders required to protect you and the children

Please indicate what steps or orders you believe the court should take or make in order to protect the safety of the child(ren) whose name(s) is/are given at the top of this form and/or yourself:

7. Attending the Court

Please also indicate whether the court needs to make any special arrangements for you to attend court (e.g. providing you with a separate waiting room from the respondent or other security provision). Do you consider the court should give consideration to any special measures for you or any witnesses to give evidence at the hearing?

If Yes, please explain why.

Signed
(Applicant/Respondent)

Date

Notes for Guidance

About these Notes:

- They explain some of the terms used in form C1AA that may be unfamiliar to you and will help you to complete the form.
- You should read all these notes before beginning to complete the form.
- Please do not enclose any original or copy documents unless you have been asked for something specifically.
- These notes are only a guide to help you complete form C1AA. If you need further help you should speak to a solicitor, Citizen's Advice Bureau or law centre. Public funding of your legal costs may be available from the Northern Ireland Legal Services Commission – a solicitor will be able to tell you more about this.

Please note that while court staff will help on procedural matters, they cannot offer any legal advice.

Section 1

1. About you

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete the Confidential Address Form (Form C5). The court can give you this form. It should be filed at the court at the same time as your application is submitted.

2. Your solicitor's details

You should complete this section if you have a solicitor acting for you. He or she may be able to help you complete this form and will give you the information necessary to complete these details.

If you do not have a solicitor simply insert the words "solicitor not instructed".

Section 2

Do not complete this section if you are the applicant. Go straight to Section 3 (Further Information).

Complete this section only if:

- a) you are the respondent
- b) the applicant has completed Form C1AA and,
- c) you wish to comment on the allegations made by the applicant.

You must only comment on the allegations made by the applicant in his or her Form C1AA and not on any other information elsewhere in the application.

Put your comments as briefly as you can. You may be asked to provide more detailed information later in the proceedings.

If you do not wish to comment at this stage, this section may be left blank or you may insert the words "No comment at this stage".

Section 3

1. Involvement with outside agencies and organisations

“Harm” means ill-treatment or the impairment of health and development.

If following an incident of domestic abuse or harm, the police, social services, mental health services or other support services have been or are still involved with:

- a) *any or all of the children listed at the top of the Form C1AA*
- b) *a full, half or step brother or sister of a child(ren) listed at the top of the form*
- c) *or a person who is or has been involved with caring for the children or has had contact with the children you should provide:*
 - *the name and address of any agency or service that has been involved but do not give any further details. You can comment on these later in this form.*
 - *the name of the person you have as a contact within that agency or service.*
 - *the dates on which you had involvement. (If you cannot remember the precise dates, please provide the month or a date as near as possible).*

If any of the agencies mentioned above continue to be involved you should say so in simple terms e.g. “the police are continuing their investigations” or “the social services are still involved”. This list is not exhaustive so you should include all those that are still involved. If you have any documents, reports or correspondence, appointment cards or other relevant paperwork please say so here.

Do not *enclose any of this paperwork with this form. The court may ask you to produce this later in the proceedings if it considers that it may be relevant to the case.*

2. Incidents of abuse, violence or harm

For each alleged incident of violence, domestic abuse or harm, please give short answers to the following questions:

- *What was the date of each incident? (If you cannot remember the precise date, please provide the month or a date as near as possible).*
- *Who was the victim of this behaviour? You should consider whether any child saw or heard anything and name him or her but do not give details here.*

- *Who was responsible for this behaviour?*
- *What was the nature of this behaviour e.g. was it physical, mental or sexual (and what form did it take)?*
- *How often did this kind of behaviour happen and give the date (as far as you can remember) of the most recent incident?*
- *Did you go to your GP or to a hospital to get treatment in respect of any injuries sustained for any of the children named in this form or the applicant or other person involved in the incident(s)?*
- *Do you believe that the harm, violence or abuse is likely to happen again in the future?*

You shall have an opportunity later in the proceedings to provide a more substantial statement.

3. Involvement of the children

If you believe that any of the child(ren) named at the top of the form C1AA have either seen, heard or were aware of any of the alleged incidents of abuse, you should say so here and say briefly how these alleged incidents affected the family and the children. You will have an opportunity to give full details later in the proceedings.

4. Witnesses

If your answer to this question is “yes” you should ask whether he or she is willing, and able, to provide supporting evidence. This evidence could be any paperwork supplied by the police, hospital or any agency to which the incident was reported. You should also say whether or not this person is prepared to give evidence in court.

Do not *attach any of the evidence to this form. The court may ask you to provide it later in the proceedings.*

5. Medical treatment or other assessment of the child(ren)

If any of the children named at the top of Form C1AA have been referred by a doctor, psychiatrist or psychologist for treatment or assessment relating to his or her emotional, social or behavioural development you should provide:

- *the name and address of the psychiatrist or psychologist.*
- *the date when the referral was made (this may not be the date of the appointment).*

If you cannot remember the precise date, please provide the month or a date as near as possible.

- *a summary of the treatment recommended or the result of the assessment.*
- *information about whether you know that there was an assessment and the whereabouts of any reports or correspondence relating to it.*

If any of this information is in your possession please say so:

- *information about whether or not this treatment continues.*

You should not include any documents, copies of appointment cards etc at this stage. You may be asked to provide this information later in the proceedings.

6. Steps or orders required to protect you and the children

You are completing this form because there are allegations that the child(ren) may have suffered or be at risk of suffering domestic abuse, violence or harm or seeing another person suffering such domestic abuse, violence or harm and you are asking the court to make an order for Residence, Contact, Prohibited Steps or Specific Issue.

These terms mean:

- a) Residence: this decides who the child or children are going to live with in the future.*
 - b) Contact: this decides how often and for how long the person with whom the child(ren) are living must let the child(ren) visit, stay or otherwise have contact with the person asking for the order.*
 - c) Prohibited Steps: this prevents a parent from taking a particular action as set out in the order without the permission of the court. This also applies to actions by any other person named in the order.*
 - d) Specific issue: this decides specific questions e.g. about education, medical treatment or a foreign holiday or visit where parents or those with parental responsibility cannot agree.*
- *Please say what steps or order you think the court should make to protect the interests of yourself and the child(ren) named in this form so that you and they may be protected.*

7. Attending the Court

If you feel that you are vulnerable or likely to be intimidated when you attend court and would like the court to make special arrangements, please say so on this form. The court will try to supply you and your witnesses with a separate waiting area. For this or any other measures to be considered please will you explain why you feel you need them.”

FORM TO BE SUBSTITUTED IN THE MAGISTRATES' COURTS (CHILDREN
(NORTHERN IRELAND) ORDER 1995) RULES (NORTHERN IRELAND) 1996

"FORM C4
ACKNOWLEDGEMENT

The Court

The full name of the applicant

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

Date of [Hearing] [Directions Appointment]

What you (the person receiving this form) should do

- Answer the questions overleaf. **If the applicant is asking only for financial relief in respect of the child(ren) named above, you do not need to answer questions 6 and 7.**
- If you need more space for an answer use a separate sheet of paper. Please put your full name and case number at the top.
- If the applicant has asked the court to order you to make a payment for a child you must also fill in a Statement of Means (Form C7A). You can obtain this form from a court office if one has not been enclosed with the papers served on you.
- **If you answer "Yes" to both parts of question 6, and/or question 7, you must also fill in Supplemental Information Form (Form C1AA).** You can obtain this form from a court office if one has not been enclosed with the papers served on you.
- When you have answered the questions make copies of both sides of this form. You will need a copy for the applicant, and each party named in Part 4 of Form C1.
- Post, or hand, a copy to the applicant and to each party. Then post, or take, this form, and the Statement of Means if you filled one in, to the court at the address below.

You must do this **within 14 days** of the date when you were served with the summons, **or** of the postmark on the envelope if the Notice of Proceedings was posted to you.

To be completed by the court

The court office is open
from am to pm
on Mondays to Fridays

1. About you

Full name

Date of birth

Address

*Please give a daytime
telephone number if
you can*

Telephone
Number

2. About your solicitor

Name

*If you do not have a solicitor
put **None**. (But see note 3 on
the Notice of Proceedings
which was served on you).*

Address

Telephone Number

FAX Number

DX Number

3. Address to which letters and
other papers should be sent.

4. The application was received on:

5. Do you oppose the application?

6. Did you receive a completed
Supplemental Information Form
(Form C1AA) from the applicant
with the papers served on you?

Yes

No

If Yes, do you wish to comment on
any of the statements made in that
form by the applicant?

Yes

No

7. Do you believe that the child(ren)
named above have suffered or are at
risk of suffering any harm from any
of the following or through seeing or
hearing any of the following:

Yes

No

- any form of domestic abuse
- violence within the household
- other conduct or behaviour
- ill treatment of another person
by any person who—

- (a) is or has been involved in caring for the child(ren); or
- (b) lives with, or has contact, with the child(ren)?

8. Do you intend to apply to the court for an order?

9. Will you use an interpreter at court?

If Yes state the language into which the interpreter will translate.

Note: If you require an interpreter you must bring your own.

Signed
(Respondent)

Date

”

FORM TO BE INSERTED IN SCHEDULE 1 TO THE MAGISTRATES' COURTS
(DOMESTIC PROCEEDINGS) RULES (NORTHERN IRELAND) 1996

“FORM D1A

Civil Partnership Act 2004
(Part 1 of Schedule 16: Rule 3(3))

Summons to Respondent on Application for order for financial provision

of Petty Sessions District of
Applicant

of County Court Division of
Respondent

Whereas an application has been made under Part 1 of Schedule 16 of the above Act for an order that you—

- * (a) must make to the applicant such periodical payments, for such term as may be specified;
- * (b) must pay to the applicant such lump sum as may be specified;
- * (c) must make to the applicant for the benefit of (being a child of the family), or to such child such periodical payments for such term as may be specified;
- * (d) must pay to the applicant for the benefit of (being a child of the family) or to such child such lump sum as may be specified;

on the ground(s) that you—

- * (a) have failed to provide reasonable maintenance for the applicant, or
- * (b) have failed to provide or make a proper contribution towards reasonable maintenance for any child of the family as named above; or
- * (c) have behaved in such a way that the applicant cannot reasonably be expected to live with you; or
- * (d) have deserted the applicant.

Where an order is sought for periodical payments to or for the benefit of a child of the family it is—

- * (a) for a stepchild;
- * (b) in addition to child support maintenance already payable under a Child Support Agency assessment;
- * (c) to meet expenses arising from a child's disability;
- * (d) to meet expenses incurred by a child being educated or training for work;
- * (e) when either the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;
- * (f) on some other ground (please specify).

* Delete which is inappropriate.

[Whereas an application has also been made under of the Children
(Northern Ireland) Order 1995 a copy of which is attached].

THIS IS TO COMMAND YOU to appear as respondent on the hearing of the said application at 20 on the o'clock day of before a Court of Summary Jurisdiction for the above-mentioned Petty Sessions District.

Dated this day of 20 .

Lay Magistrate
[or Clerk of Petty Sessions]

Note: Children's birth certificates must be lodged before the hearing of the application.

Notice to parties of requirement to give particulars of other proceedings

The attention of all parties to these proceedings is drawn to section 39 of the Family Law Act 1986 (c.55) which requires parties to proceedings for or relating to a child to give particulars of other proceedings known to them which relate to the child concerned (including proceedings out of the jurisdiction and concluded proceedings). The information to be supplied to the court is specified in Rule 5 of the Magistrates' Courts (Family Law Act 1986) Rules (Northern Ireland) 1988 [S.R. 1988 No. 113]."

FORM TO BE SUBSTITUTED IN THE MAGISTRATES' COURTS (DOMESTIC PROCEEDINGS) RULES (NORTHERN IRELAND) 1996

“FORM F1

Rule 10

APPLICATION FOR A NON-MOLESTATION ORDER/
AN OCCUPATION ORDER

FAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER 1998

of		Petty Sessions District of
	Applicant	
of		County Court Division of
	Respondent	

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. Civil Partners
3. Were Married
4. Former Civil Partners
5. Cohabiting
6. Were cohabiting
7. Both of you live or have lived in the same household
8. Relative
State how related
9. Agreed to marry.
Give date the agreement was made.
If the agreement has ended, state when.
10. Agreed to form a civil partnership.
Give the date the agreement was made. If the agreement had ended, state when.
11. Both of you are parents of or have parental responsibility for a child.
12. One of you is a parent of a child and the other has parental responsibility for that child.
13. 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):
14. 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:

(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 or civil partner who has 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 or former civil partner with no existing right to occupy, where the respondent spouse or civil partner 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 civil partner or former civil partner who is not entitled to occupy, where the respondent civil partner is also not entitled.

6. a cohabitee or former cohabitee who is not entitled to occupy, where the respondent cohabitee or former cohabitee is also not entitled.

Home Rights

If you do have 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:

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 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 the 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.

deciding whether to make an ex-parte order the court will consider 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.*

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*

If the court makes an ex-parte order, it must specify a date for 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.

Cohabitees are two persons who, although not married to each other nor civil partners of each other, are living together or have lived together as husband and wife or civil partners. People who have cohabited, but have then married or formed a civil partnership will not fall within this category, but will fall within the category of married people or people who are civil partners of each other.

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, civil partner or former civil partner.

(B) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood, or by affinity or by civil partnership) of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

This includes, in relation to a person who is cohabiting or has cohabited with another person, any person who would fall within paragraph (A) or (B) if the parties were married to, or civil partners of, each other (for 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.

Agreements to form a civil partnership:

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 a gift from one party to the agreement to the other as a token of the agreement

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.

A non-molestation order may also exclude the respondent from a defined area in which a dwelling house is included, any other defined area and any premises specified in the order.

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 or civil partner and have home rights – see the notes under ‘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 or civil partner and has 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, civil partner or former civil partner, cohabitee or former cohabitee 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 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 or if you and the respondent are or were civil partners and he or she 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.

Home Rights

- Where one spouse or civil partner “A” 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 or civil partner “B” is not so entitled, then B (who is not so entitled) has home rights. These are a right, if B is in occupation, not to be evicted or excluded from the dwelling house except with the leave of the court and, if B is not in occupation, the right with the leave of the court to enter into and occupy the dwelling house. Home rights do not exist if the dwelling house has never been and was never intended to be, the matrimonial or civil partnership home of two spouses or civil partners. If the marriage or civil partnership has come to an end, home rights will also have ceased unless a court order has been made during the marriage or civil partnership for the rights to continue after the end of that relationship.

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 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 rights in it*
- *provide that the home rights of the applicant are not brought to an end by the death of the other spouse or civil partner or termination of the marriage or civil partnership*
- *restrain the respondent from disposing of any estate he has in the dwelling house*

- *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 any 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 specified in the order*
- *restrain the respondent from disposing of any estate he has in the dwelling house.*

If you have ticked box 4 or box 5 above, an order under Article 15 or 16 of the Order of 1998 may:

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 it by the respondent for a specified period; and*
- *prohibit the respondent from evicting or excluding the applicant during that period*

(ii) *if the applicant is not in occupation—*

- *give the applicant the right to enter and occupy the dwelling-house for a specified period; and*
- *require the respondent to permit the exercise of that right*

(b) *an order under Article 13 or 14 of the Order of 1998 may—*

- *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 of the parties*
- *prohibit, suspend or restrict the exercise by the respondent of his right to occupy the dwelling house*

- *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 of the parties*
- *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 any 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.*

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, 5 or 6 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.*
 - *the nature of you and the respondent's relationship*
 - *the length of time during which you have lived together as husband and wife or civil partners*
 - *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.*
- 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*
 - *where you and the respondent were married, the length of time that has elapsed since the marriage was dissolved or annulled*
 - *where you and the respondent were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership*
 - *the existence of any pending proceedings between you and the respondent:*
under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc.)
or under Part 2 of Schedule 15 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)
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.

Section 7

Under Article 18 of the Order of 1998, 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 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*
 - *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 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.*
- 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*

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 F3. 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.”

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules make amendments to two sets of rules, which apply in proceedings in magistrates' courts, in consequence of the Civil Partnership Act 2004 (c.33). The Civil Partnership Act 2004 introduces a statutory civil registration procedure to allow same-sex couples to make a formal, legal commitment to each other by entering into a civil partnership. The Rules amend the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996 to prescribe the procedures for proceedings under Schedule 16 to the 2004 Act. They also make minor consequential amendments to forms prescribed in the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996.

The Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 are also amended in consequence of Council Regulation (EC) No. 2201/2003 of 27th November 2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility ("the new Council Regulation"). The new Council Regulation reproduced and repealed Council Regulation (EC) 1347/2000 extending it to include matters of parental responsibility where there are no matrimonial proceedings. The amendments insert new definitions relevant to the new Council Regulation, including a definition of "Member State", which gives a list of the Member States who have signed up to the new Council Regulation so as to save cross-reference to other documents. They also make provision to prescribe the procedure for applications pursuant to Article 15 of the new Council Regulation, and in relation to applications for certified copies of judgments or for a certificate under Article 39 or 41 of the new Council Regulation.

The Rules also amend the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 consequential to amendments made to Article 7 (acquisition of parental responsibility) of the Children (Northern Ireland) Order 1995 by section 1 of the Family Law Act (Northern Ireland) 2001 and amend the prescribed forms to ensure that allegations of domestic violence are raised at the commencement of proceedings under Article 8 of the Children (Northern Ireland) Order 1995.

The Notes for Guidance in Form F1 of the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996 are also amended in consequence of the Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2005. The 2005 Order amended the definitions of the terms "relative" and "cohabitee" in the Family Homes and Domestic Violence (Northern Ireland) Order 1998; so as to allow exclusion zones of defined areas to be attached to non-molestation orders and to make it clear that protective orders made ex-parte can only be made for a short period and that, if a court makes such an order, it must specify a date for a full hearing.

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