
STATUTORY INSTRUMENTS

1997 No. 1894 (L.30)

MAGISTRATES COURTS

The Family Proceedings Courts (Matrimonial Proceedings etc) (Amendment) Rules 1997

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

The Lord Chancellor, in the exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980(1) after consultation with the Rule Committee appointed under that section, hereby makes the following Rules—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Family Proceedings Courts (Matrimonial Proceedings etc) (Amendment) Rules 1997 and shall come into force on 1st October 1997.

(2) The Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991(2) shall be amended in accordance with the following provisions of these Rules and, in those provisions, any reference to a rule by number alone shall be construed as a reference to the rule so numbered in the said Rules of 1991.

2. The heading to Part II shall be amended by inserting at the end “AND PROCEEDINGS UNDER PART IV OF THE FAMILY LAW ACT 1996(3)”.

3. Rule 2(1) shall be amended—

- (a) by inserting, in the definition of “application” after the words “the Act”, the words “or, as the case may be, the Family Law Act 1996”;
- (b) by omitting, in the definition of “court”, the words “(save where section 16(5) of the Act applies)”;
- (c) by omitting the definition of “family protection order”; and
- (d) by substituting, for the definition of “form”, the following—

(1) 1980 c. 43; the relevant amending enactment is the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 25.
(2) S.I.1991/1991; the relevant amending instrument is S.I. 1992/2068.
(3) 1996 c. 27.

““form” means a form in Schedule 1 to these Rules and, where a form is referred to by number, means the form so numbered in that Schedule, with such variation as the circumstances of the particular case may require;”.

4. Rule 2(2) shall be amended by inserting at the end “or, as the case may be, in the Family Law Act 1996”.

5. Rule 3(1) shall be amended by substituting, for the words “Subject to paragraphs (3) and (4),”, the words “Subject to paragraph (3) and rule 3A,”.

6. Rule 3(1)(b) shall be amended by omitting the words “save where section 16(6) of the Act applies,” and “and, in the case of an application under section 16, at least one day,”.

7. Rule 3(2)(a) shall be amended by omitting the words “which in the case of an application under section 16 shall be no later than 14 days after receipt of the application”.

8. Rule 3(2)(c) and (4) shall be omitted.

9. After rule 3, there shall be inserted the following new rule—

“Applications under Part IV of the Family Law Act 1996

3A.—(1) An application for an occupation order or a non-molestation order under Part IV of the Family Law Act 1996 (Family Homes and Domestic Violence) shall be made in Form FL401.

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

(3) An application in Form FL401 shall be supported—

- (a) by a statement which is signed and is declared to be true; or
- (b) with the leave of the court, by oral evidence.

(4) An application in Form FL401 may, with the leave of the justices’ clerk or of the court, be made ex parte, in which case

- (a) the applicant shall file with the justices’ clerk or the court the application at the time when the application is made or as directed by the justices’ clerk; and
- (b) the evidence in support of the application shall state the reasons why the application is made ex parte.

(5) An application made on notice (together with any statement supporting it and a notice in Form FL402) shall be served by the applicant on the respondent personally not less than 2 business days prior to the date on which the application will be heard.

(6) The court or the justices’ clerk may abridge the period specified in paragraph (5).

(7) Where the applicant is acting in person, service of the application may, with the leave of the justices’ clerk, be effected in accordance with rule 4.

(8) Where an application for an occupation order or a non-molestation order is pending, the court shall consider (on the application of either party or of its own motion) whether to exercise its powers to transfer the hearing of that application to another court and the justices’ clerk or the court shall make an order for transfer in Form FL417 if it seems necessary or expedient to do so.

(9) Where an order for transfer is made, the justices’ clerk shall send a copy of the order—

- (a) to the parties, and

(b) to the family proceedings court or to the county court to which the proceedings are to be transferred.

(10) A copy of an application for an occupation order under section 33, 35 or 36 of the Family Law Act 1996 shall be served by the applicant by first-class post on the mortgagee or, as the case may be, the landlord of the dwelling-house in question, with a notice in Form FL416 informing him of his right to make representations in writing or at any hearing.

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

(12) Rule 33A of the Family Proceedings Courts (Children Act 1989) Rules 1991(4) (disclosure of addresses) shall apply for the purpose of preventing the disclosure of addresses where an application is made in Form FL401 as it applies for that purpose in proceedings under the Children Act 1989(5).”.

10. Rule 4(4) shall be amended by omitting the words “Save where section 16(6) of the Act applies,”

11. Rules 7(4), 7(5)(a), 9(1), 10(1), 12(3), 12(4), 13(1), 14 and 16(2) shall be amended by omitting the words “under the Act”.

12. Rule 8(2) shall be amended by omitting the words “Without prejudice to section 16(6) of the Act, and”.

13. Rule 11 shall be amended by substituting, for the words “proceedings under the Act”, the words “any proceedings”.

14. After rule 12, there shall be inserted the following new rules—

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

12A.—(1) This rule applies to the hearing of applications under the Part IV of the Family Law Act 1996 and the following forms shall be used in connection with such hearings:

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

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

(3) Where the applicant is acting in person, service of a copy of an order made on an application made *ex parte* shall be effected by the justices’ clerk if the applicant so requests.

(4) Where the application is for an occupation order under section 33, 35 or 36 of the Family Law Act 1996, a copy of any order made on the application shall be served by the applicant by first-class post on the mortgagee or, as the case may be, the landlord of the dwelling-house in question.

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

(6) Where the applicant is acting in person, service of a copy of the order made on an application heard *inter partes* may, with the leave of the justices’ clerk, be effected in accordance with rule 4.

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

(4) S.I. 1991/1395; rule 33A was inserted by S.I. 1994/3156.

(5) 1989 c. 41.

Applications to vary etc orders made under Part IV of the Family Law Act 1996

12B. An application to vary, extend or discharge an order made under Part IV of the Family Law Act 1996 shall be made in Form FL403 and rules 12 and 12A shall apply to the hearing of such an application.”.

15. For rules 20 and 21, there shall be substituted the following—

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

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

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

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

(2) Where an order is made varying or discharging the relevant provisions, the justices’ clerk shall—

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

(3) An application for the issue of a warrant for the arrest of the respondent shall be made in Form FL407 and the warrant shall be issued in Form FL408 and delivered by the justices’ clerk to the officer for the time being in charge of any police station for the respondent’s address or of such other police station as the court may specify.

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

- (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the order, or
- (b) adjourn the proceedings and, where such an order is made, the arrested person may be released and
 - (i) be dealt with within 14 days of the day on which he was arrested; and
 - (ii) be given not less than 2 business days’ notice of the adjourned hearing.

Nothing in this paragraph shall prevent the issue of a notice under paragraph (8) if the arrested person is not dealt with within the period mentioned in sub-paragraph (b) (i) above.

(5) Paragraphs (6) to (13) shall apply for the enforcement of orders made on applications under Part IV of the Family Law Act 1996 by committal order.

(6) Subject to paragraphs (11) and (12), an order shall not be enforced by committal order unless

- (a) a copy of the order in Form FL404 has been served personally on the respondent; and

- (b) where the order requires the respondent to do an act, the copy has been so served before the expiration of the time within which he was required to do the act and was accompanied by a copy of any order, made between the date of the order and the date of service, fixing that time.
- (7) At the time when the order is drawn up, the justices' clerk shall—
- (a) where the order made is (or includes) a non-molestation order, and
 - (b) where the order made is an occupation order and the court so directs,
- issue a copy of the order, indorsed with or incorporating a notice as to the consequences of disobedience, for service in accordance with paragraph (6).
- (8) If the respondent fails to obey the order, the justices' clerk shall, at the request of the applicant, issue a notice in Form FL418 warning the respondent that an application will be made for him to be committed and, subject to paragraph (12), the notice shall be served on him personally.
- (9) The request for issue of the notice under paragraph (8) shall be treated as a complaint and shall—
- (a) identify the provisions of the order or undertaking which it is alleged have been disobeyed or broken;
 - (b) list the ways in which it is alleged that the order or undertaking has been disobeyed or broken;
 - (c) be supported by a statement which is signed and is declared to be true and which states the grounds on which the application is made,
- and, unless service is dispensed with under paragraph (12), a copy of the statement shall be served with the notice.
- (10) If an order in Form FL419 (a committal order) is made, it shall include provision for the issue of a warrant of committal in Form FL420 and, unless the court otherwise orders—
- (a) a copy of the order shall be served personally on the person to be committed either before or at the time of the execution of the warrant; or
 - (b) the order for the issue of the warrant may be served on the person to be committed at any time within 36 hours after the execution of the warrant.
- (11) An order requiring a person to abstain from doing an act may be enforced by committal order notwithstanding that a copy of the order has not been served personally if the court is satisfied that, pending such service, the respondent had notice thereof either—
- (a) by being present when the order was made;
 - (b) by being notified of the terms of the order whether by telephone or otherwise.
- (12) The court may dispense with service of a copy of the order under paragraph (6) or a notice under paragraph (8) if the court thinks it just to do so.
- (13) Where service of a notice to show cause is dispensed with under paragraph (12) and a committal order is made, the court may of its own motion fix a date and time when the person to be committed is to be brought before the court.
- (14) Paragraphs (6) to (10), (12) and (13) shall apply to the enforcement of undertakings with the necessary modifications and as if
- (a) for paragraph (6) there were substituted the following—
 - “(6) A copy of Form FL422 recording the undertaking shall be delivered by the justices' clerk to the party giving the undertaking

- (a) by handing a copy of the document to him before he leaves the court building; or
- (b) where his place of residence is known, by posting a copy to him at his place of residence; or
- (c) through his solicitor,

and, where delivery cannot be effected in this way, the justices' clerk shall deliver a copy of the document to the party for whose benefit the undertaking is given and that party shall cause it to be served personally as soon as is practicable.”;

- (b) in paragraph (12), the words from “a copy” to “paragraph (6) or” were omitted.

(15) Where a person in custody under a warrant or order, desires to apply to the court for his discharge, he shall make his application in writing attested by the governor of the prison showing that he has purged or is desirous of purging his contempt and the justices' clerk shall, not less than one day before the application is heard, serve notice of it on the party (if any) at whose instance the warrant or order was issued.

(16) The court by whom an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(17) Where execution of an order of committal is suspended by an order under paragraph (16), the applicant for the order of committal must, unless the court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that paragraph.

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

(19) Where the court makes a hospital order in Form FL413 or a guardianship order in Form FL414 under the Mental Health Act 1983(6), the justices' clerk shall—

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

(20) Where a transfer direction given by the Secretary of State under section 48 of the Mental Health Act 1983 is in force in respect of a person remanded in custody by the court, the justices' clerk shall notify—

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

of any committal hearing which that person is required to attend and the justices' clerk shall give notice in writing to the hospital where that person is detained of any further remand.

(21) An order for the remand of the respondent shall be in Form FL409 and an order discharging the respondent from custody shall be in Form FL421.

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

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

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

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

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

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

16. For rule 24 there shall be substituted the following—

“Setting aside on failure of service

24. Where an application has been sent to a respondent in accordance with rule 4(1) and, after an order has been made on the application, it appears to the court that the application did not come to the knowledge of the respondent in due time, the court may of its own motion set aside the order and may give such directions as it thinks fit for the rehearing of the application.”.

17. For rule 25 there shall be substituted the following—

“Proceedings with respect to which a single justice may discharge the functions of a court

25. The following proceedings are prescribed as proceedings with respect to which a single justice may discharge the functions of a court, that is to say, proceedings—

- (a) in which an application is made ex parte for an occupation order or a non-molestation order under Part IV of the Family Law Act 1996;
- (b) in accordance with rules 3, 3A(2), (6) and (8), 4, 6 (except paragraph (2)), 7 to 14 and 20(4).”.

18. In Schedule 1—

- (a) forms MAT 8, 10, 11, 12 and 13 shall be omitted; and
- (b) at the end there shall be inserted the list of forms in Schedule 1 to these Rules and the forms in Schedule 2 to these Rules.

19. Subject to paragraph 10(3) of Schedule 9 to the Family Law Act 1996, rules 2 to 15, 17 and 18 shall not apply to proceedings commenced before Part IV of that Act came into force.

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Dated 28th July 1997

Irvine of Lairg, C.

SCHEDULE 1

Rule 18

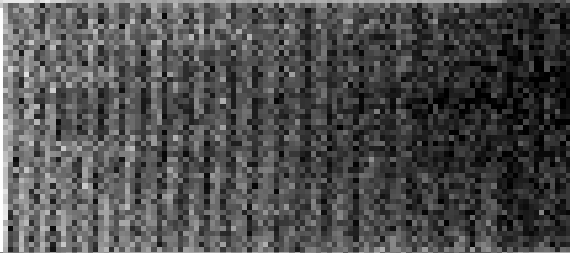
FAMILY PROCEEDINGS COURTS (MATRIMONIAL PROCEEDINGS ETC) (AMENDMENT) RULES 1997

FL401	Application for a non-molestation order/an occupation order
FL402	Notice of Proceedings [Hearing] [Directions Appointment]
FL403	Application to vary, extend or discharge an order in existing proceedings
FL404	Order or Direction
FL405	Record of Hearing
FL406	Power of Arrest
FL407	Application for a Warrant of Arrest
FL408	Warrant of Arrest
FL409	Remand Order
FL410	Recognizance of respondent
FL411	Recognizance of respondent's surety
FL412	Bail Notice
FL413	Hospital Order/Interim Hospital Order
FL414	Guardianship Order
FL415	Statement of Service
FL416	Notice to Mortgagees and Landlords
FL417	Transfer of proceedings to [the High Court] [a county court] [a family proceedings court]
FL418	Notice to show good reason why an order for your committal to prison should not be made
FL419	Order of Committal or other order upon proof of disobedience of a court order or breach of an undertaking
FL420	Warrant of Committal to prison
FL421	Notice of Discharge from Custody under Warrant of Committal
FL422	General Form of Undertaking

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SCHEDULE 2

Rule 18

<p>Application for: a non-molestation order an occupation order</p> <p>Family Law Act 1996 (Part 2)</p> <p>The court</p>	
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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 UK number:

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 referred to for an application being heard without notice must be stated in the statement in support.

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d 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 Was married
- 3 Cohabiting
- 4 Was cohabiting

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

- 6 Relative
State how related:

- 7 Agreed to marry.
Give the date the agreement was made. If the agreement has ended, state when.

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

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

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- 10 One of you is the natural parent or grandparent of a child adopted or found 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 found for adoption.
- (State whether (i), (ii), (iii) or (iv).)

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

5 Application for a non-molestation order

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

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

6 Application for an occupation order

If you do not wish to apply for an occupation order, please go to section 7 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:

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(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 cohabitant or former cohabitant with no existing right to occupy, where the respondent cohabitant or former cohabitant is so entitled.

4 a spouse or former spouse who is not entitled to occupy, where the respondent spouse or former spouse is also not entitled.

5 a cohabitant or former cohabitant who is not entitled to occupy, where the respondent cohabitant or former cohabitant is also not entitled.

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Matrimonial Home Rights

If you do have matrimonial home rights please

State whether the title to the land is registered or unregistered (if known):

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

If you wish to apply for an occupation order, state below how 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:

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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 coming 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 any 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 consequences. 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

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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, have the page on the form filled and complete Confidential Address Form C6. The cover may play your role, please.

If you are under 16, someone over 16 must help you make this application. This person, who might be one of your parents, is called a 'next friend'.

If you consider 16 you are responsible to make this application, the court will not be able to grant you permission to make this application. If you do not want to have the application dealt with through a court, you may want to consider the following options:

Section 2

An occupation order made by the court might include if the application is made on the respondent is a violent or sexual offender. In deciding whether to make an occupation 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 otherwise protected from prosecution if the application is not made immediately;
- whether there is reason to believe that the respondent is aware of the proceedings being brought and is likely to do anything to frustrate the applicant or someone who will be seriously prejudiced by the order being made;

If the order makes an occupation order, it transfers the responsibility to make representations otherwise made in connection with the order to a full hearing.

'Child' in relation to a person who has reached the age of 16 means ill-treatment or the impairment of health, which includes physical, emotional, financial or the impairment of health and development. 'Household' includes those of the respondent who are not parties and, in relation to a child, includes a child who is not a party and requires evidence of any harm which you allege or support in your application. This evidence should be included with the statement accompanying this application.

Section 3

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

Childhood are a man and a woman who, although not married to each other, are living together as if they were married and people who have been married and are still within this category, but will still include the category of married people.

People who live or have lived in the same household do not include people who share the same household but whose one of them is the other's employer, tenant, lodger or boarder.

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

- (a) the father, mother, grandparent, stepfather, stepmother, grandchild, grandchild, grandchild or grandchild of the respondent or of the respondent's partner or former partner;
- (b) the brother, sister, uncle, aunt, niece or nephew, whether of the full blood or of the half blood or by marriage of the respondent or of the respondent's partner or former partner.

This includes, in relation to a person who is living or has lived with another person as husband and wife, any person who would, but for section 1(1) of the Family Law Act 1996, be treated as the respondent's partner or former partner.

Agreement to marry: You will not be able to apply for an occupation order if you have agreed to marry the respondent. The court will require the following evidence of this agreement:

- evidence of writing;
- the gift of an engagement ring in contemplation of marriage;
- evidence that a ceremony has been entered into in contemplation of marriage or that the parties have agreed to marry for the purposes of the Marriage Act 1949.

Parents and parental responsibility: You will not be able to apply if the respondent is a parent or the parent of a child or has parental responsibility for that child.

If you are the parent or the other has parental responsibility for the child under the Children Act 1989, parental responsibility is held jointly and equally by both parents 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. If they are not the same, parental responsibility can be assigned for the father in accordance with the provisions of the Children Act 1989.

Section 4

A non-molestation order can be made if the respondent is making you or a relevant child, harassment or distress, including, but not limited to, pestering or other forms of harassment. The court will be able to make an order if the respondent's conduct is gross, or bad.

Section 5

If you wish to apply for an occupation order then you are entitled to apply for an order in one of the grounds set out in the application form, you should seek legal advice.

'Building' does not include any building or part of a building which is occupied as a dwelling, but includes any building or structure which is occupied as a dwelling and any yard, garden, garage or outbuilding belonging to or used in connection with it.

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Section 6 (continued)

You must provide any evidence which you draw on the following matters in your evidence in support of this application. If necessary, further statements may be included after the application has been made:

If you are childless then it, that it shows the court will need any available evidence of the following:

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

If you are childless then it shows, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and 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 be together
- the length of time that has elapsed since the marriage was dissolved or annulled
- the existence of any pending proceedings between you and the respondent:
 - under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders) or section 23B of that Act (financial provision orders)
 - under Schedule 1 para 1(1)(a) or (b) of the Children Act 1989 (orders for financial relief against parents)
 - relating to the legal or beneficial ownership of the dwelling-house.

If you are childless then it shows, the court will need any available evidence of:

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

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

Section 7

Under section 23B of the Matrimonial Causes Act 1973 (property adjustment orders):

- you are an other party obligated to make repairs and maintenance of the dwelling-house
- you are an other party obligated to contribute to the cost, mortgage or other payments relating to
- make a party occupying the dwelling-house to make an order of maintenance in the case where to support in the circumstances, if the other party could be for the money to be used in mortgage
- grant other party possession or use of furniture or other contents
- make other party to take reasonable care of any furniture or other contents
- make other party to take reasonable steps to keep the dwelling-house and any furniture or other contents secure.

Section 8

If the dwelling-house is owned or occupied as a mortgage, the lender of the mortgage must be served with notice of this proceedings in Form 704/70. He or she will then be able to make representations to the court regarding the cost of mortgage.

Section 10

If you are living in the same household as, for example, the member of the family or a friend of a partner of you or the respondent,

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to

Telephone Number

FAX Number

Case Number

Notice of Proceedings
[Hearing] [Directions Appointment]

has applied to the court for an order.

About the [Hearing][Directions Appointment]

You should attend when the Court hears the application at

at

at

[time]

[day]

What to do next

There is a copy of the application with this Notice. You have been named as a party to the application. Read the application and the court's order.

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

Form N164 of Proceedings

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About this Notice

Note 1	<p>It is in your own interests about the court or the state court or tribunals. You should be ready to give any evidence which you think will help you in your case of the case.</p>
Note 2	<p>For legal advice</p> <p>go to a solicitor or an advice agency.</p> <p>You can obtain the address of a solicitor or an advice agency from the Yellow Pages or the Solicitors' Regional Directory.</p> <p style="text-align: center;">You will find these books in a 'Citizens' Advice Bureau' or Law Centre social library</p> <p>A solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.</p>
Note 3	<p>If you require an interpreter</p> <p>Because you do not speak English, you must bring your own.</p> <p>Because of a disability, please contact the court to ask what help is available.</p>
Note 4	<p>To the respondent</p> <p>The following information only applies if the applicant has applied for an occupation order.</p> <p>If the applicant has ticked box 1(a) or 1(b) 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 children. <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 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 children • 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

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

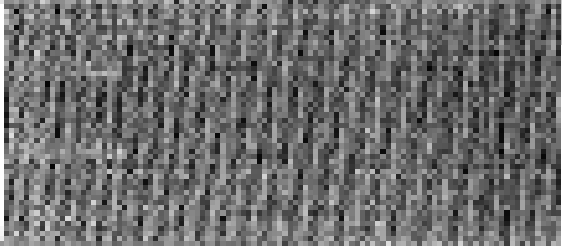
If the applicant has failed to do so, the court will need any available evidence of:

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

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Application to vary, extend or discharge an order in existing proceedings
Apply Court Order 100A (Part 10)

The court to which you are applying
 Please you must make this application to the court which made the original order



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 or its details to become the subject of any other proceedings, please complete Additional Form 101 (see form on www.courts.govt.nz). The court will give you this form.

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

Full application may include details of any other existing proceedings.

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3 Your reasons(s) for applying

State briefly your reasons for applying.

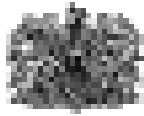
4 Person(s) to be served with this application

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

Signed
(Applicant)

Date

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In the

Case Number

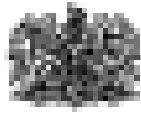
[Order]

[Direction]

Sheet of

Part of Law Act 1999

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In the

Case Number

[Order]

[Direction]

Sheet of

Family Law Act 1994

Ordered by [Mr] [Mrs] Justice
[J-He] [J-He] Honorary Judge
[Deputy] District Judge (of the Family Division)
Justice(s) of the Peace
[Assistant] Recorder
Clerk of the Court

40

Page 10 of 10

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

Orders under Family Law Act 1996 Part IV

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

Notice A - order (include non-coercive order - "non-coercive" mandatory)

Important Notice to the Respondent (name)

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

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

Notice B - order does not (include non-coercive order - "non-coercive" discretionary)

Important Notice to the Respondent (name)

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

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

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Occupation orders under s33 of the Family Law Act 1996

1. The court declares that the applicant [name] is entitled to occupy [address of home or intended home] as [his/her] home. OR

2. The court declares that the applicant [name] has matrimonial home rights in [address of home or intended home]. AND/OR

3. The court declares that the applicant [name]'s matrimonial home rights shall not end when the respondent [name] dies or their marriage is dissolved and shall continue until.....or further order.

It is ordered that

4. The respondent [name] shall allow the applicant [name] to occupy [address of home or intended home] OR

5. The respondent [name] shall allow the applicant [name] to occupy part of [address of home or intended home], namely: [specify part]

6. The respondent [name] shall not obstruct, harass or interfere with the applicant [name]'s potential occupation of [address of home or intended home]

7. The respondent [name] shall not occupy [address of home or intended home] OR

8. The respondent [name] shall not occupy [address of home or intended home] from [specify date] until [specify date] OR

9. The respondent [name] shall not occupy [specify part of address of home or intended home] AND/OR

10. The respondent [name] shall not occupy [address or part of address] between [specify date or time]

11. The respondent [name] shall leave [address or part of address] [forthwith] [within ____ hours/days] of service or [insert] of this order.] AND/OR

12. Having left [address or part of address], the respondent [name] shall not return to, enter or attempt to enter [or go within [specify distance] of] it.

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

It is ordered that

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

Occupation orders under ss17 & 18 Family Law Act 1996

It is ordered that

- 20. The respondent [name] shall allow the applicant [name] to occupy [address of home or intended home] or part of it namely [specify]. AND/OR
- 21. [One or both of the provisions in paragraphs 9 & 10 above may be inserted] AND/OR
- 22. The respondent [name] shall leave [address or part of address] [forthwith] [within ____ [hours/days] of service on [date] of this order]. AND/OR
- 23. Having left [address or part of address], the respondent [name] may not return to, enter or attempt to enter [or go within [specify distance] of] it.

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

It is ordered that

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

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

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

27. The [applicant (name)] [respondent (name)] shall pay the following for [address of home or intended home]: [specify mortgage or other debts]

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

29. The [party in occupation] shall keep and use the [furniture] [contents] [specify if necessary] of [address of home or intended home] and the [applicant (name)] [respondent (name)] shall return to the [party in occupation] the [furniture] [contents] [specify if necessary] for their use [specify if necessary].

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

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

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Duration

Occupation orders under s33 of the Family Law Act 1996

32. This order shall last until [specify event or date]. O4

33. This order shall last until a further order is made.

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

34. This order shall last until [state date which must not be more than 6 months from the date of this order].

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

Occupation orders under ss36 & 38 Family Law Act 1996

36. This order shall last until [state date which must not be more than 6 months from the date of this order].

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

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Non-protestation orders

It is ordered that

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

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

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

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

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

In the

Case Number

Record of the Hearing on

Applicant
By
Respondent
By

On notice Ex parte

1. Attendance

Name	Present	Represented by

2. Evidence

(To be completed only when the court makes a finding of fact)

	Date
The Court read the report(s) / statement(s) of	
The Court heard oral evidence (in writing) of	

PL01 - Issues of the hearing

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



In the

Case Number

Power of Arrest

Family Law Act 1995

Applicant
[X] /
Respondent
[X] /

The Court orders that

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

(Note: insert these provisions of the order made under this Act on which the power of arrest is attached to this order.)

Power of Arrest

This court is satisfied that the respondent has used or threatened violence against the Applicant) [and] [or] the following: [X] [or]

[and that there is a risk of significant harm to the applicant [and] [or] the child(ren)]
[and that the respondent is in breach of the respondent if the power of arrest is not attached immediately].

A power of arrest is attached to the order whereby any variable may (under the power given by section 47(5) of the Family Law Act 1996) arrest without warrant the respondent if the applicant has any reasonable cause for suspecting that the respondent may be in breach of any provision to which the power of arrest is attached.

This Power of Arrest expires on:

Note to the Arresting Officer

When the respondent is arrested under the power given by section 47 of the Family Law Act 1996, the officer must explain that

the respondent must be brought before the court within 24 hours of the time of his arrest and if the court is not then disposed of forthwith, the court may remand the respondent.

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

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

Ordered by

[X] [X] Justice
[X] [X] Master Judge
[X] [X] Deputy District Judge (of the Family Division)
[X] [X] of the Peace
[X] [X] Sheriff

201

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

In the

Case Number

Application for a Warrant of Arrest

Applicant
By/
Respondent
By/

Where
in
the
jurisdiction
of
the
Court

On the day of ,
(or the respondent gave an undertaking) as follows:

the Court made an order

Where
in
the
jurisdiction
of
the
Court

By/
Respondent

applies for an order that a warrant should be issued for the arrest of the

Where
in
the
jurisdiction
of
the
Court

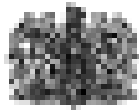
The respondent has disobeyed the order (or broken the undertaking) by:

Signed

Dated

Form Application for a warrant of arrest

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In the

Case Number

Warrant of Arrest
Family Law Act 1996

Applicant
[s]
Respondent
[s]

The Court directs all police constables, (the district judge and bailiffs) (and the Tipstaff of the High Court) to arrest the respondent whose address is [s] (and [s])

and to bring the respondent before this court immediately.

The Court found an application, supported by [s] (and written statement) [s] (and on oath), that the respondent had disobeyed the order made

on
[s] at [s] [s] (County) [s] Court
by

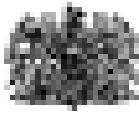
[Notice of bail] However, the respondent shall be released on bail:

- on entering into a recognisance to the sum of £ [s]
- [s] (and on providing [s]) (and [s]) to the sum of £ [s] (and [s])
- [s] (and subject to the following conditions:

The next hearing is [s] at [s] [s]

Ordered by [s] [s] Justice
[s] [s] District Judge
District Judge [s] of the Family Division
[s] of the Peace
[s] Recorder

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



In the

Case Number

Remand Order

Family Law Act 1980

Applicant

vs

Respondent

vs

The Court orders that:

the respondent be [remanded in custody to] [sent] [for a hearing] [referred to court] [remanded to enable a medical examination and report to be made under section 31 of the Mental Health Act 1983.]

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

[The Court further orders that] ¹ use by respondent in a return

[the respondent be admitted to, and detained in,

Hospital

and conveyed there by²

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

and conveyed there by²

The Court heard that

an order had been made on

at the

[Magistrate's] [County] [High] Court

and that the respondent had disobeyed the order by

[The Court [heard] [considered]]

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

as required by the provisions of section 31 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [serious mental impairment] within the meaning of that Act.]

Form CA 20/2000

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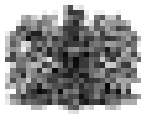
- [Notice of bail] (The respondent shall be released on bail)
- on entering into a recognisance in the sum of []
 - [and on providing] [security][ies] in the sum of [] [and] [] []
 - [and subject to the following condition(s)]:
(that a medical examination and report be made as the respondent under section 28 of the Mental Health Act 2003.)

The next hearing is _____ at _____ [and] [and]

Ordered by _____
[His] [Her] Honour
[His] [Her] Honour Judge
District Judge [of the Family Division]
Justice[s] of the Peace
[Magistrate]/Recorder

at _____

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In the

Case Number

Recognition of respondent

Family Law Act 1998

Applicant
Rg/
Respondent
Rg/

About you

Your name: Respondent appears at
Your address: Respondent appears at

Your undertaking

I promise to pay in the event the court orders
if I do not comply with the following conditions.

The condition is:

that I appear before the court
at

at [am] [pm]
or at any other place and time which may be ordered.

For official use

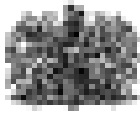
Taken before me
(Name and title)

Signature of Respondent Date

Signature
at [am] [pm]

Name (using appropriate title)

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In the

Case Number

Recognition of respondent's surety

Family Law Act 1975

Applicant
Plg
Respondent
Ry

About the respondent

Name

Address

About you (the surety)

Your name

Please print or write in block letters in capital letters.

Your address

Your undertaking

About your undertaking

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

The undertaking

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

The condition is that

the respondent does appear before the court
at:

at

at [] []

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

Signed
(name)

Date

For official use

Take before me
person and file

Signed

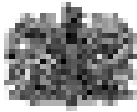
at

at

[] []

For Registrar's use

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In the

Court Number

Bail Notice

Family Law Act 1999

Applicant
vs.
Respondent
vs.

Notice to
[Name of respondent]
Dear Sir/Madam:
of [Name]

Warning The order dated [Date] [Time] [Location] conference is fixed. You must attend the hearing below. The court has the power to send you to prison if it finds that any of the allegations made against you are true.

The Court is satisfied that you breached the order made on [Date] at the [Magistrate's / County / High] Court by [Name] [Address].

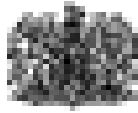
About your bail [You have been remanded on bail which has been granted on conditions that:
• You provide a recognisance in the sum of £ [Amount]
• You provide [Name] [Address] of [Address] as a surety
• [Condition]

The next hearing is at [Date] [Time] at [Address].
[You must appear at a time to be fixed by the court. The court will tell you when to attend].
On remanding in the custody of the court, you may not leave the building without the consent of a court officer.

Signed
[Name and Title]
Date

FLN1 Bail Notice

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



In the

Case Number

[Interim] Hospital Order

Family Law Act 1975

Applicant
[Pt]
Respondent
[Pt]

The Court orders that: the respondent whose address is

be admitted to and detained in the following hospital

[Name and address]

[The Court directs that] [and that the respondent be conveyed there by] [pending admission to that hospital within the period of 28 days the respondent shall be detained at a place of safety, namely:

[not shall be conveyed there by]

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

- an occupation order
- a non-molestation order
- an exclusion requirement included by virtue of section 33A of the Children Act 1989 in an interim care order made under section 18 of that Act
- an exclusion requirement included by virtue of section 44A of the Children Act 1989 in an emergency protection order made under section 44 of that Act.

The Court [heard] [considered]

the [written] evidence of two medical practitioners, namely:

as required by the provisions of section 21 of the Mental Health Act 1983 that the respondent is suffering from [mental illness] [serious mental impairment] within the meaning of that Act.

The Court was satisfied that:

- all other conditions, which under section [21] [23] of the Mental Health Act 1983 are required to be satisfied for the making of [a] [an interim] hospital order, are satisfied in respect of the respondent.
- arrangements have been made for the respondent's admission to the hospital named above within 28 days of the date of this order.

Ordered by: [Mr] [Ms] Justice
[Mr] [Ms] Justice Judge
District Judge [of the Family Division]
Justice(s) of the Peace
[Assistant] Recorder

en

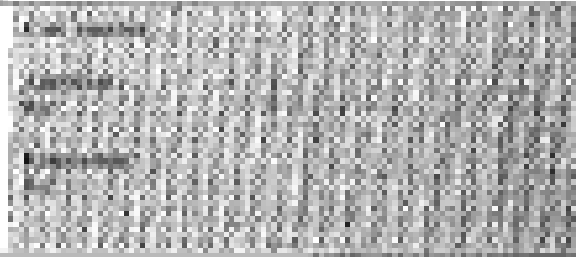
Revised page 10/11

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Statement of Service

Family Law Act 1996

The court in which your case is being heard



- 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 applicable)
 - file this form with the court case before the first Directions Appointment or Hearing at 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

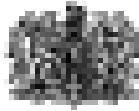
Name and address of person served	Means of identification of person, and how, when and where served	Prescribed forms served

I have served the (application) (Notice of Proceedings) as stated above.
I am the (applicant) (petitioner for the application) (claimant)

Signed:

Date:

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In the

Court Number

Notice to Mortgagees and Landlords

Family Law Act 1995

Applicant
A/1
Respondent
B/1

Notice to
concerning the
dwelling-house at

Take Notice

that on [applicant] [party] has been made in proceedings under the Family Law Act 1995 which affects the occupation of the above dwelling-house and the payment of the [mortgage] [rent] [tenancy].
[A copy of the order is attached.]

[The next hearing is

at

on

at

[on] [year]

What you may
do next:

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

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

you may make representations to the court about these proceedings.

This should be done in writing to the court where the proceedings are taking place.

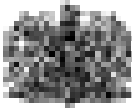
If you write to a county court or the High Court, your letter should be addressed to The Court Manager. If you write to a magistrates' court your letter should be addressed to the Clerk to the Justice.

Signed

Date

FOR FURTHER INFORMATION

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In the

Case Number

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

Family Law Act 1986

Applicant
By
Respondent
By

The Court orders that these proceedings be transferred to the

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

because

The next [hearing]
[directions
appointment] is

at

on

at

[am] [pm]

Please witness all future
correspondence to

Ordered by

[Mr] [Mrs] Justice
[Mr] [Mrs] Recorder
[Deputy] District Judge [of the Family Division]
Justice(s) of the Peace
[Assistant] Recorder
Clerk of the Court

111

FL-17 Transfer Proceedings

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

Magistrates' Court

Case Number

Notice To Show Good Reason why an Order for Your Commitment to Prison should not be made

Applicant
By
Respondent
By

I, the undersigned,
of the
County of
do hereby certify that on the
day of
at
the Court made an order
[or you gave an undertaking] as follows:

I, the undersigned, do hereby certify that the applicant has applied for an order that you should be committed to prison.

It is alleged that you have disobeyed the order [or broken the undertaking] by:

The undersigned Court
on the _____ at _____
do hereby certify that you should not be sent to prison

- If the Court is satisfied that any of the allegations are true, it may order that you be imprisoned for your contempt of this Court.
- Magistrates will hear about what you do if the court is not satisfied.

Ordered by: Justices of the Peace
Clerk of the Court

08

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Clear this	
------------	--

Important notes

- The Court has the power to send you to prison if it finds that any of the allegations made against you are true. Full details of the allegations are contained in the applicant's statement.
- You must attend court by the date shown on the front of this form. It is in your own interest to do so. You should bring any witnesses and documents with you which you think will help you put your side of the case.
- If you can show good reasons why you should not be sent to prison you must tell the Court.
- If you need advice you should show this document at once to your solicitor or go to a Citizens' Advice Bureau.

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

Magistrates' Court

Case Number

Order Committed or Other Order upon Proof of Disobedience of a Court Order or Breach of an Undertaking

Applicant
By
Respondent
By

1 An application having been made by [name] for the discharge of the order (hereinafter the "order") dated [date] (hereinafter the "order") and the obligations made by the applicant described on the attached notice to show good cause

2 [name] has been suspended of a term of the attached order and has been arrested by a constable and brought before the Court under Section 41 of the Family Law Act 1996.

IMMEDIATE CEREMONIAL ORDER

It is ordered that [name] be committed for contempt to Her Majesty's Prison [name] (or such facility designated if necessary) and that a warrant of arrest be issued for [name].

And the provisions set out in [name] shall apply to [name] in regard to contempt and s/he be released.

[And, as the court is satisfied [name] disposed with service of the order of application for a committed order, it is ordered that the warrant be brought before this court as soon as possible.]

ALTERNATIVE DISPOSAL

It is ordered that [name] be committed for contempt to prison for a period of [name].

The order is suspended until [name] and will not be put in force if during that time the respondent complies with the following terms:

And it is further ordered that in the event of non-compliance any application for terms of the warrant shall be made to the court (as notice to the respondent)

It is ordered that [name] be fined the sum of £ [name] to be paid to the office of the court within 14 days of the date of this order.

It is ordered that consideration of the matter be further adjourned until [name] and may be restored for decision during that time.

PROVISION FOR COSTS

And it is ordered that

[name]

The court of justice, hearing and disposing, has passed the following

Full text of the order upon proof of disobedience of a court order or breach of an undertaking

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RECORD OF SERVICE, HEARING AND CONTEMPTS FOUND PROVED

At the hearing

appeared personally was represented by solicitor / counsel did not attend
 appeared personally was represented by solicitor / counsel did not attend

The court read the evidence of (Witness)

Date statement(s) made

And the court heard oral evidence given by (Witness)

And the court is satisfied (having considered the facts disclosed by the evidence and/or submitted to court by the law) that (inserting the order (breaking up the undertaking) dated

has been guilty of contempt of this court by (insert an act out in the attached schedule)

1.

And for the particular contempt the court imposed the penalty of:

1.

2.

2.

RECORD OF SERVICE

Service effected with Post/Office (unimpaired or impaired)

Uncollected

(the addressee) (depending with) service

Service provided by

summons of

writ of habeas corpus

Service effected to show good reason to serve (FL 418)

(Order dated)

(the addressee) (depending with) service

Service provided by

summons of

writ of habeas corpus

Service effected with Court/Office (Order)

I have signed

certify that I served the documents within copy of this order for

delivery before to the court before to see what direction concerning delivery of the order is to be given

delivery by hand to the addressee at (insert) (or leave) (or) (if typed)

Where a suspended criminal order is made, the applicant is responsible for service.

Where a writ is requested, summons or writ of habeas corpus is attached to the order, personal service is advisable.

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Magistrates' Court

Case Number

Notice Warrant of Commital to prison

Applied
By
Independent
By

To every constable within his jurisdiction
the Governor of Her Majesty's Prison at¹

On the day of 19 ,
it was ordered that²
should be committed to Prison³ (detained under Section 51 | Criminal Justice Act 1968) for
a period of⁴ for contempt of this court.
You the Constables are therefore required (herein to be read
only
You the Constable(s) authorized person(s) are required to deliver
to Her Majesty's Prison at⁵
And you, the Governor, are required to receive and keep⁶
fully (in prison) from the onset under this warrant for a period of⁷ or until
finally discharged, if sooner.
⁸ And, as the court by order dated dispensed with service of the notice of
application for committal order,
It is ordered that you, the Governor, being⁹
before this court at such time and place as the court shall specify and afterwards,
receive him to the prison unless the court orders his discharge.)

Please address all future correspondence to

Ordered by Parties(s) of the Peace

100

Warrant of Commital to prison

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

Magistrates' Court

Case Number

Notice Discharge from Custody under Warrant of Committal

Applicant
By
Respondent
By

Upon application made this day of 19 by
who was committed to prison for contempt by an order of this court dated the day of 19 ,
and upon reading the application of
started on the day of 19 , showing that he is desirous of paying
his committal,
and upon hearing

Pro. Secus I find upon being satisfied that the notice of this application has been duly served upon the

1

The Court ordered that
be discharged out of the custody of the Governor of Her Majesty's Prison at⁽¹⁾

Pro. Secus
I find

That the Court further ordered that
do pay the sum of , the costs of this application, such costs to be taxed and paid

Pro. Secus
I find

to (or within 14 days of taxation)

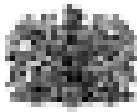
Please address all future
correspondence to

Ordered by Justice(s) of the Peace

100

FD-01 Notice for Discharge from Custody under Warrant of Committal

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



Magistrates' Court

Case Number

This form is to be used only for undertakings made in court.

General Form of Undertaking

Family Law Act 1996

Applicant
Sgt
Respondent
Sgt

(1) Name of the person giving undertaking On the _____ day of _____ 20__

(2) Name of the court and the person representing the respondent
[Applicant in person] [was represented by [Solicitor] [Counsel]]
and gave an undertaking to the Court promising ¹⁰

(3) Details of the undertaking
And to be bound by those provisions until ¹¹
The Court explained to ¹²
the meaning of this undertaking and the consequences of failing to keep his promise,
And the Court accepted his undertaking ¹³ [and if so ordered directed that
¹⁴ should sign the statement over/and],

(4) Name of the court and the person representing the respondent
And the Court ordered that ¹⁵

Ordered by Justice(s) of the Peace

OR

Important Notice

To ¹⁶

(1) Address of the person giving the undertaking ¹⁷

- You may be liable to pay for costs of court if you break the promise that you have given to the Court.
- If you do not understand anything in this document you should go to a solicitor, Legal Advice Centre or a Citizens' Advice Bureau.

18232 General Form of Undertaking

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

General Form of Undertaking (Statement)

My lawyer will check
this form for me and
I will personally sign the
relevant parts.

Statement:

I understand the undertaking that I have given, and that if I break any of my promises to the Court I may be sent to prison for contempt of court.

Signed

Date

To be completed by
the Court.

Delivered:

- My posting etc
- My hand etc
- Through a solicitor etc

Signed

(Court)

Date

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991 so as to provide for the making of applications under Part IV of the Family Law Act 1996 (Family Homes and Domestic Violence) and for the enforcement of orders made under that Part.

The 16 enables magistrates to set an order aside where there has been failure of service.