

2007 No. 1628 (L. 11)

MAGISTRATES' COURTS, ENGLAND AND WALES

**The Family Proceedings Courts (Matrimonial Proceedings etc.)
(Amendment) Rules 2007**

<i>Made</i> - - - -	<i>6th June 2007</i>
<i>Laid before Parliament</i>	<i>8th June 2007</i>
<i>Coming into force</i> - -	<i>1st July 2007</i>

The Lord Chief Justice with the concurrence of the Lord Chancellor, after having consulted with the rule committee appointed under section 144(A1) of the Magistrates' Courts Act 1980(a), makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980:

Citation, commencement and interpretation

1. These Rules may be cited as the Family Proceedings Courts (Matrimonial Proceedings etc.) (Amendment) Rules 2007 and shall come into force on 1st July 2007.

Amendments to the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991

2. The Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991(b) are amended in accordance with rules 3 to 8.

3. In rule 3A—

(a) for paragraph (3), substitute—

“(3) An application in Form FL401 shall be supported by a statement which is signed and is declared to be true.”; and

(b) in paragraph (4)(b), for “evidence” substitute “statement”.

4. In rule 12 for paragraph (8) substitute—

“(8) The designated officer for the court shall supply a copy of the record of the reasons for a decision made in pursuance of paragraph (5)(b) to—

(a) a party in proceedings under Part IV of the Family Law Act 1996; and

(b) to any other person, if satisfied that it is required in connection with an appeal or possible appeal,

if so requested by such person.”.

(a) 1980 c.43; sub-section (A1) was inserted by the Constitutional Reform Act 2005 (c.4), Schedule 4, paragraphs 99 and 102 and sub-section (1) was amended by the Constitutional Reform Act 2005 (c.4), Schedule 4, paragraphs 99 and 102 and the Courts Act 2003 (c.39), Schedule 8, paragraph 245 (on a date to be appointed).
(b) S.I. 1991/1991; relevant amending instruments are S.I. 1997/1894, S.I. 2005/617 and S.I. 2005/2930.

5.—(1) In rule 12A—

(a) in paragraph (1)—

- (i) in sub-paragraph (a), omit “and”;
- (ii) in sub-paragraph (b)—
 - (aa) after “any”, insert “occupation”; and
 - (bb) after “FL404”, insert—
“, and
- (c) any non-molestation order made on the hearing shall be issued in Form FL404a”.

(2) In paragraph (2) after “with”, insert “a copy of the record of the reasons for a decision made in pursuance of rule 12(5)(b), ”.

6. In rule 20—

(a) for paragraph (1), substitute—

“(1) Where a power of arrest is attached to one or more of the provisions (“the relevant provisions”) of an occupation order under the Family Law Act 1996, 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.

(1A) Where the court makes a non-molestation order under that Act or paragraph (1) applies, the following documents 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—

- (a) a copy of Form FL404a or FL406, as the case may be; and
- (b) 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).

(1B) The documents referred to in paragraphs (1A)(a) and (b) shall be delivered by—

- (a) the applicant, if the applicant is responsible for serving the order on the respondent in accordance with rule 12A(2) or 12(5); or
- (b) the designated officer for the court, if the designated officer for the court is responsible for serving the order on the respondent in accordance with rule 12A(3).
”.

(b) in paragraph (2)—

- (i) after “relevant provisions”, insert “of the occupation order or, as the case may be, any provisions of the non-molestation order”; and
- (ii) in sub-paragraph (a), for “the form under paragraph (1)”, substitute “any form under paragraph (1A)”.

(c) in paragraph (3), after “the respondent”, insert “under section 47(8) of the Family Law Act 1996”;

(d) at the beginning of paragraph (4)(b)(i), insert “Unless the court directs otherwise,”;

(e) in paragraph (6)(a), after “FL404”, insert “or FL404a, as the case may be,”;

(f) in paragraph (22)—

- (i) after “power of arrest”, insert “attached to an occupation order under section 47(2) or (3) of the Family Law Act 1996”; and
- (ii) after “warrant of arrest”, insert “issued on an application under section 47(8) of that Act”.

7. In rule 21(1)—

- (a) after “power of arrest”, insert “attached to an occupation order under section 47(2) or (3) of the Family Law Act 1996”; and

(b) after “warrant of arrest”, insert “issued on an application under section 47(8) of that Act”.

8. In Schedule 1—

- (a) in the list of forms—
 - (i) for the entry in the second column relating to Form FL404, substitute “Occupation Order”; and
 - (ii) after the entry relating to Form FL404, in the first column insert “FL404a” and in the second column insert “Non-Molestation Order”.
- (b) for Form FL404, substitute Form FL404 set out in the Schedule to these Rules;
- (c) after Form FL404, insert Form FL404a as set out in the Schedule to these Rules; and
- (d) for Form FL406, substitute Form FL406 set out in the Schedule to these Rules.

Transitional Provisions

9. Where—

- (a) a power of arrest has been attached to a non-molestation order under Part IV of the Family Law Act 1996 before the commencement of these Rules; and
- (b) that power of arrest still has effect,

the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991 in force immediately before the commencement of these Rules shall apply—

- (i) following any arrest made under the power of arrest attached to the non-molestation order; or
- (ii) to any application for bail made under rule 21(1) if the arrest is made before these Rules come into force and the arrested person is being held on remand.

Phillips of Worth Matravers, CJ

5th June 2007

I concur

6th June 2007

Harriet Harman
Minister of State
Ministry of Justice

**Occupation Order
(Under sections 33 to 38
of the Family Law Act
1996)**

To
of

In the		Court
Case No.		
Applicant		
<i>Ref</i>		
Respondent		
<i>Ref</i>		

Important Notice to the Respondent [name]

You must obey this order. You should read it 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 apply to the court to change or cancel the order.

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

On 20 , [insert name and status of judge or Family Proceedings Court] ,
Sitting at
considered an application for an order.

The court declares that: [delete as appropriate]

It is ordered that: [delete as appropriate]

until [] [further order]

[Notice of further hearing
The court will re-consider the application and whether the order should continue at a further hearing at
on the day of 20 at o'clock

If you do not attend at the time shown the court may make an order in your absence.]

Occupation orders under s33 of the Family Law Act 1996

Declarations

1. The applicant [name] is entitled to occupy [address of home or intended home] as [his/her] home. **OR**
2. The applicant [name] has matrimonial home rights in [address of home or intended home]. **AND/OR**
3. 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.

Orders

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

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

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

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

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

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

24. The [applicant [name]] [respondent [name]] shall maintain and repair [address of home or intended home] **AND/OR**
25. The [applicant [name]] [respondent [name]] shall pay the rent for [address of home or intended home] **OR**
26. The [applicant [name]] [respondent [name]] shall pay the mortgage payments on [address of home or intended home]. **OR**
27. The [applicant [name]] [respondent [name]] shall pay the following for [address of home or intended home]: [specify outgoings as bullet points].
28. The [party in occupation] shall pay to the [other party] £ each [week, month, etc] for [address of home etc].
29. The [party in occupation] shall keep and use the [furniture] [contents] [specify if necessary] of [address of home or intended home] and the [applicant [name]] [respondent [name]] shall return to the [party in occupation] the [furniture] [contents] [specify if necessary] [no later than [date/time]].
30. The [party in occupation] shall take reasonable care of the [furniture] [contents] [specify if necessary] of [address of home or intended home].
31. The [party in occupation] shall take all reasonable steps to keep secure [address of home or intended home] and the furniture or other contents [specify if necessary].

Duration

Occupation orders under s 33 of the Family Law Act 1996

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

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

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

Occupation orders under ss36 & 38 of the 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. The occupation order made on *[state date]* is extended until *[state date which must not be more than 6 months from the date of this extension]* and must end on that date.

Non - Molestation Order
 (Under section 42 of the
 Family Law Act 1996)

In the		Court
Case No.		
Applicant		
<i>Ref</i>		
Respondent		
<i>Ref</i>		

To
 of

Important Notice to the Respondent [name]

You must obey this order. You should read it 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 apply to the court to change or cancel the order.

If, without reasonable excuse, you do anything which you are forbidden from doing by this order, you will be committing a criminal offence and liable on conviction to a term of imprisonment not exceeding five years or to a fine or to both.

Alternatively, if you do not obey this order, you will be guilty of contempt of court and may be sent to prison.

On 20 , [insert name and status of judge or Family Proceedings Court],
 sitting at

considered an application for an order and ordered that:

until [] [further order]

[Notice of further hearing

The court will re-consider the application and whether the order should continue at a further hearing at

on the day of 20 at o'clock

If you do not attend at the time shown the court may make an order in your absence.]

This order is made [without notice][with notice] to the respondent.

Note to the Arresting Officer

Under section 42A of Family Law Act 1996 breach of a non-molestation order is a criminal offence punishable by up to five years imprisonment. It is an arrestable offence and it is not necessary to obtain a warrant.

“A person who without reasonable excuse does anything that he is prohibited from doing by a non-molestation order is guilty of an offence.”

Family Law Act 1996, Section 42A(1)

Non-molestation orders

1. 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**

2. 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**

3. 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**

4. 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].

**Record of
Occupation Order
(s33-38 Family Law Act 1996)**

In the		Court
Case No.		
Applicant <i>Ref</i>		
Respondent <i>Ref</i>		

On 20 , [insert name and status of judge or Family Proceedings Court]

Sitting at

considered an application for an injunction and **ordered that** [name] **is forbidden from** (and must not instruct, encourage or in any way suggest that any other person should do so):-

(here set out the provisions of the occupation order)

This order expires on:

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991 following the amendment made by section 1 of the Domestic Violence, Crime and Victims Act 2004 (C.28) providing that breach of a non-molestation order is a criminal offence. Repeals made in Schedule 11 and consequential amendments made in Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 also limit the power of the court to attach a power of arrest to an occupation order only.

Rule 3 provides that applications for an occupation or a non-molestation order must be supported by a statement.

Rule 4 provides that the designated officer for the court shall supply a copy of the record of the reasons for a decision to the parties in proceedings under Part IV of the Family Law Act 1996 and to other persons on request in other proceedings caught by these Rules.

Rule 5 provides that occupation orders and non-molestation orders are to be issued on Form FL404 and Form FL404a respectively and that a copy of the record of the reasons for a decision is served upon the respondent.

Rule 6 provides that where the court attaches a power of arrest to an occupation order that the relevant provisions of that order are to be set out on Form FL406. This rule also provides for service upon 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.

Rule 7 makes consequential amendments to rule 21(1) regarding applications for bail.

Rule 8 introduces amendments to existing forms and Form FL404a.

Rule 9 provides for transitional provisions.

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