



**In the Family Court
Sitting at [Place]**

No:

The Family Law Act 1996

**The Marriage of XX and YY, or
The Civil Partnership of XX and YY, or
The Relationship of XX and YY, or
The Family of XX and YY**

Adapt as necessary

After hearing *[name the advocate(s) who appeared]*....
(*In the case of an order made without notice*) After reading the statement(s) and hearing the witness(es) specified in para *[insert]* of the Recitals below

**OCCUPATION ORDER MADE BY [NAME OF JUDGE] ON [DATE]
SITTING IN PRIVATE**

IMPORTANT NOTICE TO THE RESPONDENT, [YY] OF *[insert address]*

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.

WARNING: IF YOU DO NOT OBEY THIS ORDER, YOU WILL BE GUILTY OF CONTEMPT OF COURT AND YOU MAY BE SENT TO PRISON, BE FINED, OR HAVE YOUR ASSETS SEIZED.

The Parties

1. The applicant is XX
The respondent is YY
[The second respondent is ZZ]
[Specify if any party acts by a litigation friend]

Definitions

2. The “children of the family” are:
 - a. [forename and surname] born on *[date]*;
 - b. [forename and surname] born on *[date]*; and
 - c. etc
3. The “family home” is the property at *[insert full address including postcode]* [and its surrounding gardens, land and outbuildings] / *[“insert”]* is the property at

[insert full address including postcode] [and its surrounding gardens, land and outbuildings]

Recitals

4. This is an occupation order made against the respondent [YY] on [insert date] by [insert name of judge] on the application of the applicant [XX].
5. (Where the order was made without notice) The judge read the following witness statement(s) [set out] and heard oral evidence from [insert name(s)].
6. (Where the order was made without or on short notice) This order was made at a hearing [without notice]/[on short informal notice] to the respondent. The reason why the order was made [without notice]/[on short informal notice] to the respondent was [set out]. The respondent has the right to apply to the court to set aside or vary the order – see paragraph [insert] below.

Undertakings given to the court by the applicant XX

7. (Where the order was made without or on short notice) [By [insert time and date] the applicant shall:
 - a. issue an application notice [in the form of the draft produced to the court] [claiming the appropriate relief]; and
 - b. file a witness statement [substantially in the terms of the draft witness statement produced to the court] [confirming the substance of what was said to the court by the applicant’s counsel/solicitor]].
8. (Where the order was made without or on short notice) [By [insert time and date] the applicant shall [use [his]/[her] best endeavours personally to serve upon the respondent] / [serve upon the respondent, by [insert method of service – for example posting to the respondent’s usual address]], together with this order:
 - a. a copy of the application;
 - b. copies of the witness statement(s) and exhibits containing the evidence relied upon by the applicant, and any other documents provided to the court on the making of the application; and
 - c. a note [prepared by [his]/[her] solicitor] recording the substance of the dialogue with the court at the hearing and the reasons given by the court for making the order, which note shall include (but not be limited to) any allegation of fact made orally to the court where such allegation is not contained in the witness statement(s) or draft witness statement(s) read by the judge.]
9. The statement of service of this order on the respondent shall be filed at court and shall be in a form which complies with section 9 of the Criminal Justice Act 1967 [and shall include the following signed declaration:

“This statement is true to the best of my knowledge and belief and I make it knowing that, if it were tendered in evidence, I would be liable to prosecution if I wilfully stated in it anything which I know to be false or did not believe to be true.”]

IT IS ORDERED (BY CONSENT):

Occupation Order – Declaration under Section 33 of the Family Law Act 1996

10. The court declares that the applicant, [XX], is entitled to occupy [the family home] / [the property at [*insert full address including postcode*]] [and its surrounding gardens, land and outbuildings] as [his]/[her] home.
11. The court declares that the applicant, [XX], has home rights in [the family home] / [the property at [*insert full address including postcode*]], [and/or] the court declares that the applicant's, [XX's], home rights in [the family home] / [the property at [*insert full address including postcode*]], shall not end when the respondent, [YY], dies or their [marriage/civil partnership] is dissolved and shall continue until [*insert date and time*] / [the determination of the applicant's financial provision claims under case number [*insert*]] or a further order is made.

Occupation Order under Section 33 of the Family Law Act 1996

12. The respondent, [YY], shall allow the applicant, [XX] to occupy [the family home] / [the property at [*insert full address including postcode*]] [and its surrounding gardens, land and outbuildings] / [part of the property at [*insert full address including postcode*]] [and its surrounding gardens, land and outbuildings], namely [*specify part*]].
13. The respondent, [YY], must not occupy [the family home] / [the property at [*insert full address including postcode*]] [and its surrounding gardens, land and outbuildings] / [*specify part of the property at [insert full address including postcode]*]] [between [*specify dates and times*]].
14. The respondent, [YY], shall leave [the family home] / [the property at [*insert full address including postcode*]] [and its surrounding gardens, land and outbuildings] / [*specify part of the property at [insert full address including postcode]*] by [*insert date and time*] / [within [*insert hours/days*] of this order being personally served on [him]/[her] [and/or] of [him]/[her] being made aware of the terms of this order whether by personal service or otherwise].
15. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings] / [*specify part of the property*], the respondent, [YY], must not return to, enter or attempt to enter [or go within [*insert*] metres of it], [except that the respondent may go to the property [without entering it] for the purpose of collecting the children of the family for, and returning them from, such contact as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
16. The respondent, [YY], must not obstruct, harass, or interfere with the [applicant's], [XX's], peaceful occupation of [the family home] / [the property at [*insert full address including postcode*]] [and its surrounding gardens, land and outbuildings] / [*specify part of the property at [insert full address including postcode]*]].

Occupation Order under Sections 35 and 36 of the Family Law Act 1996

17. The applicant, [XX], has the right to enter into and occupy [the family home] / [the property at [*insert full address including postcode*]] [and its surrounding

gardens, land and outbuildings], and the respondent, [YY], shall allow the applicant to do so.

18. The applicant, [XX], has the right not to be evicted or excluded from, and the respondent, [YY], must not evict or exclude the applicant from, [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] or any part of it [except for *[specify part of the property]*].
19. The respondent, [YY], must not occupy [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] / *[specify part of the property at [insert full address including postcode]]* [between *[specify dates and times]*].
20. The respondent, [YY], shall leave [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] / *[specify part of the property at [insert full address including postcode]]* by *[insert date and time]* / [within *[insert hours/days]* of this order being personally served on [him]/[her] [and/or] of [him]/[her] being made aware of the terms of this order whether by personal service or otherwise].
21. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings] / *[specify part of the property]*, the respondent, [YY], must not return to, enter or attempt to enter [or go within *[insert]* metres of it], [except that the respondent may go to the property [without entering it] for the purpose of collecting the children of the family for, and returning them from, such contact as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
22. The respondent, [YY], must not obstruct, harass, or interfere with the [applicant's], [XX's], peaceful occupation of [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] / *[specify part of the property at [insert full address including postcode]]*.

Occupation Order under Sections 37 and 38 of the Family Law Act 1996

23. The respondent, [YY], shall allow the applicant, [XX], to enter into and occupy [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] / [part of the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings], namely *[specify part]*.
24. The respondent, [YY], must not occupy [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] / *[specify part of the property at [insert full address including postcode]]* between *[specify dates and times]*.
25. The respondent, [YY], shall leave [the family home] / [the property at *[insert full address including postcode]*] [and its surrounding gardens, land and outbuildings] / *[specify part of the property at [insert full address including postcode]]* by

[insert date and time] / [within [insert hours/days] of this order being personally served on [him]/[her] [and/or] of [him]/[her] being made aware of the terms of this order whether by personal service or otherwise].

26. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings] / [specify part of the property], the respondent, [YY], must not return to, enter or attempt to enter [or go within [insert] metres of it], [except that the respondent may go to the property [without entering it] for the purpose of collecting the children of the family for, and returning them from, such contact as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
27. The respondent, [YY], must not obstruct, harass, or interfere with the [applicant's], [XX's], peaceful occupation of [the family home] / [the property at [insert full address including postcode]] [and its surrounding gardens, land and outbuildings] / [specify part of the property at [insert full address including postcode]].

Additional Provisions which may be included in Occupation Orders made under Sections 33, 35 or 36 of the Family Law Act 1996

28. [The applicant [XX]] and/or [The respondent [YY]] shall maintain and repair [the family home] / [the property at [insert full address including postcode]] [and its surrounding gardens, land and outbuildings].
29. [The applicant [XX]] and/or [The respondent [YY]] shall discharge the [mortgage payments]/[rental payments] in respect of [the family home] / [the property at [insert full address including postcode]].
30. [The applicant [XX]] and/or [The respondent [YY]] shall discharge the following outgoings in respect of [the family home] / [the property at [insert full address including postcode]]: [insert outgoings].
31. The applicant [XX] shall pay to the respondent [YY] £[insert] each week/month, for the use of [the family home] / [the property at [insert full address including postcode]].
32. The applicant [XX] shall keep and use the [furniture]/[contents]/[specify if necessary] of [the family home] / [the property at [insert full address including postcode]].
33. The respondent [YY] shall return to the applicant [XX] the [furniture]/ [contents]/ [specify if necessary] of [the family home] / [the property at [insert full address including postcode]] by no later than [insert time and date].
34. The applicant [XX] shall take reasonable care of the [furniture]/ [contents]/ [specify if necessary] of [the family home] / [the property at [insert full address including postcode]].

35. The applicant [XX] shall take all reasonable steps to keep secure [the family home] / [the property at *insert full address including postcode*] and the [furniture]/[contents]/*specify if necessary*].

Duration of Occupation Order under Section 33 of the Family Law Act / Power of Arrest

36. Paragraph(s) *insert* of this order shall be effective against the respondent [YY] once it is personally served on [him]/[her] [and/or] once [he]/[she] is made aware of the terms of this order whether by personal service or otherwise.

37. Paragraph(s) *insert* of this order shall last until *insert date and time* unless it is set aside or varied before then by an order of the court.

38. The respondent has the right to apply to the court at any time, [(*where the order was made without notice*)] and without waiting until the return date], to set aside or vary this order. *Insert if appropriate: The respondent must give [insert hours / days] [written] notice of the application to the [applicant]/[applicant's solicitors]*. If the respondent intends to rely on any evidence in support of [his]/[her] application to set aside or vary this order, [(*where the order was made without notice*)] or intends to rely on any evidence to oppose the continuation of the order at the return date], the substance of it must be provided in writing to the [applicant]/[applicant's solicitors] in advance.

39. (*Where the order was made without or on short notice*) [If the respondent intends to oppose the continuation of the order on the return date [he] / [she] must notify the court [in writing or by email] no later than *insert date and time* that [he] / [she] intends to attend the hearing on the return date and to oppose the continuation of the order. If the respondent does not notify the court then the court may, if appropriate, make an order dispensing with the need for any attendance by the [applicant] / [applicant's solicitors] on the return date and may, if appropriate, on the return date make an order extending the injunction.]

40. [A power of arrest is attached to paragraphs *insert* of this order].

Duration of Occupation Order under Sections 35 and 37 of the Family Law Act / Power of Arrest

41. Paragraph(s) *insert* of this order shall be effective against the respondent [YY] once it is personally served on [him]/[her] [and/or] once [he]/[she] is made aware of the terms of this order whether by personal service or otherwise.

42. Paragraph(s) *insert* of this order shall last until *insert date and time – which must not be more than 6 months from the date of this order* unless it is set aside or varied before then by an order of the court.

43. [Paragraph(s) *insert* of the occupation order made on *insert date* is extended until *insert date and time – which must not be more than 6 months from the date of this extension* unless it is set aside or varied before then by an order of the court].

44. The respondent has the right to apply to the court at any time, [(*where the order was made without notice*)] and without waiting until the return date], to set aside or vary this order. [*Insert if appropriate:* The respondent must give [*insert hours / days*] [written] notice of the application to the [applicant]/[applicant's solicitors]] If the respondent intends to rely on any evidence in support of [his]/[her] application to set aside or vary this order, [(*where the order was made without notice*)] or intends to rely on any evidence to oppose the continuation of the order at the return date], the substance of it must be provided in writing to the [applicant]/[applicant's solicitors] in advance.
45. (*Where the order was made without or on short notice*) [If the respondent intends to oppose the continuation of the order on the return date [he] / [she] must notify the court [in writing or by email] no later than [*insert date and time*] that [he] / [she] intends to attend the hearing on the return date and to oppose the continuation of the order. If the respondent does not notify the court then the court may, if appropriate, make an order dispensing with the need for any attendance by the [applicant] / [applicant's solicitors] on the return date and may, if appropriate, on the return date make an order extending the injunction.]
46. [A power of arrest is attached to paragraphs [*insert*] of this order.]

Duration of Occupation Order under Sections 36 and 38 of the Family Law Act / Power of Arrest

47. Paragraph(s) [*insert*] of this order shall be effective against the respondent [YY] once it is personally served on [him]/[her] [and/or] once [he]/[she] is made aware of the terms of this order whether by personal service or otherwise.
48. Paragraph(s) [*insert*] of this order shall last until [*insert date and time – which must not be more than 6 months from the date of this order*] unless it is set aside or varied before then by an order of the court.
49. [Paragraph(s) [*insert*] of the occupation order made on [*insert date*] is extended until [*insert date and time – which must not be more than 6 months from the date of this extension*] unless it is set aside or varied before then by an order of the court, and must end on that date.]
50. The respondent has the right to apply to the court at any time, [(*where the order was made without notice*)] and without waiting until the return date], to set aside or vary this order. [*Insert if appropriate:* The respondent must give [*insert hours / days*] [written] notice of the application to the [applicant]/[applicant's solicitors]. If the respondent intends to rely on any evidence in support of [his]/[her] application to set aside or vary this order, [(*where the order was made without notice*)] or intends to rely on any evidence to oppose the continuation of the order at the return date], the substance of it must be provided in writing to the [applicant]/[applicant's solicitors] in advance.
51. (*Where the order was made without or on short notice*) [If the respondent intends to oppose the continuation of the order on the return date [he] / [she] must notify the court [in writing or by email] no later than [*insert date and time*] that [he] / [she] intends to attend the hearing on the return date and to oppose the

continuation of the order. If the respondent does not notify the court then the court may, if appropriate, make an order dispensing with the need for any attendance by the [applicant] / [applicant's solicitors] on the return date and may, if appropriate, on the return date make an order extending the injunction.]

52. [A power of arrest is attached to paragraphs *[insert]* of this order.]

Hearings

53. [The application(s) [is]/[are] listed for a further [directions] hearing in the Family Court sitting at *[insert place]* on *[insert date]* ('the return date'). At the hearing on the return date, the court will reconsider the application and decide whether [the order should continue] / [the application should be granted and the order should be made] (time estimate: *[insert time]*). If the respondent does not attend on the date and at the time shown the court may make an order in [his]/[her] absence.]

54. [The application(s) [is]/[are] listed for a Final Hearing in the Family Court sitting at *[insert place]* on *[insert date]*. At the hearing, the court will reconsider the application and decide whether [the order should continue] / [the application should be granted and the order should be made] (time estimate: *[insert days]*). If the respondent does not attend on the date and at the time shown the court may make an order in [his]/[her] absence.]

Costs

55. The costs of this application are [reserved to the judge hearing the application on the return date] / [in the application], etc.

Dated

Statements pursuant to PD 37A para 2.2

I understand the undertakings 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

.....
XX

I understand the undertakings 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

.....
YY

Communications with the court

All communications to the court about this order should be sent to –
[Insert the address and telephone number of the appropriate Court Office]

Name and address of applicant's legal representatives

The applicant's legal representatives are –

[Name, address, reference, fax and telephone numbers both in and out of office hours and e-mail]