**In the Family Court No: [*Case number*]**

**sitting at [*Court name*]**

**The Family Law Act 1996**

**The** **[Marriage] /** **[Relationship] /** **[Family] of [*applicant name*] and [*respondent name*]**

**(Adapt as necessary)**

After hearing [*name the advocates(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 [*para number*] of the Recitals below

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

**IMPORTANT NOTICE TO THE RESPONDENT, [*RESPONDENT NAME*] OF [*RESPONDENT 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 [*applicant name*]

The respondent is [*respondent name*]

[Further respondent[s]: [*further respondent(s) name(s)*]]

**(specify if any party acts by a litigation friend)**

**Definitions**

1. The “relevant children” within the meaning of Family Law Act 1996 are:
	1. [*child full name*] (a [boy] / [girl]) born on [*date*];
	2. [*child full name*] (a [boy] / [girl]) born on [*date*];
	3. [*etc*].
2. [The “family home” is the property at [*full address*] [and its surrounding gardens, land and outbuildings]].

**(Most judges are happy to use the short form of a property address in the body of the order after a definition is given, and this is what we have done from here onwards. However some judges demand on the full address being used, especially if a litigant in person is involved/a penal notice is attached to the order. If that is the case you will need to add the full address throughout.)**

1. [“[*Property short name*]” is the property at [*full address*] [and its surrounding gardens, land and outbuildings]].

**(Most judges are happy to use the short form of a property address in the body of the order after a definition is given, and this is what we have done from here onwards. However some judges demand on the full address being used, especially if a litigant in person is involved/a penal notice is attached to the order. If that is the case you will need to add the full address throughout.)**

**Recitals**

1. This is an occupation order made against the respondent [*respondent name*] on [*date*] by [*name of judge*] on the application of the applicant [*applicant name*].
2. **(Where the order was made without notice)** The judge read the following witness statement[s] [*insert*] and heard oral evidence from [*name(s)*].
3. **(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 [*insert*]. The respondent has the right to apply to the court to vary or discharge the order – see paragraph [*para number*] below.

**Undertakings given to the court by the applicant [*applicant name*]**

1. **(Where the order was made without or on short notice)** [By [*time and date*] the applicant shall:
	1. issue an application notice [in the form of the draft produced to the court] [claiming the appropriate relief]; and
	2. 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]].
2. **(Where the order was made without or on short notice)** [By [*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* **(e.g. posting to the respondent’s usual address**)], together with this order:
	1. a copy of the application;
	2. 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
	3. 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.]
3. 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**

1. The court declares that the applicant, [*applicant name*], is entitled to occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings] as [his] / [her] home.
2. The court declares that the applicant, [*applicant name*], has home rights in [the family home] / [the property at [*Property short name*]], [and] / [or] the court declares that the applicant, [*applicant name*]’s, home rights in [the family home] / [the property at [*Property short name*]], shall not end when the respondent, [*respondent*], dies or their [marriage] / [civil partnership] is dissolved and shall continue until [*date and time*] / [the determination of the applicant’s financial provision claims under case number [*number*] or a further order is made.

**Occupation Order under Section 33 of the Family Law Act 1996**

1. The respondent, [*respondent name*], shall allow the applicant, [*applicant name*], to occupy [[the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [part of the property at [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings], namely [*specify part*]].
2. The respondent, [*respondent name*], must not occupy [[the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] [between [*specify dates and times*]].
3. The respondent, [*respondent name*], shall leave [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [*specify part of* [the family home] / [the property at [*property short name*]] by [*date and time*] / [within [*number 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].
4. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings] / [*specify part of the property*], the respondent, [*respondent name*], must not return to, enter or attempt to enter [or go within [*number*] metres of it], [except that the respondent may go to the property [without entering it] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
5. The respondent, [*respondent name*], must not obstruct, harass, or interfere with the [applicant], [*applicant name*]’s, peaceful occupation of [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]].

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

1. The applicant, [*applicant name*], has the right to enter into and occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings], and the respondent, [*respondent name*], shall allow the applicant to do so.
2. The applicant, [*applicant name*], has the right not to be evicted or excluded from, and the respondent, [*respondent name*], must not evict or exclude the applicant from, [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] or any part of it [except for [*part of the property*]].
3. The respondent, [*respondent name*], must not occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] [between [*dates and times*]].
4. The respondent, [*respondent name*], shall leave [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] by [*date and time*] / [within [*number 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].
5. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings]] / [*specify part of the property*], the respondent, [*respondent name*], must not return to, enter or attempt to enter [or go within [*number*] metres of it], [except that the respondent may go to the property [without entering it] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
6. The respondent, [*respondent name*], must not obstruct, harass, or interfere with the [applicant], [*applicant name*]’s, peaceful occupation of [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]].

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

1. The respondent, [*respondent name*], shall allow the applicant, [*applicant name*], to enter into and occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings] / [part of [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings], namely [*specify part*]].
2. The respondent, [*respondent name*], must not occupy [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] between [*dates and time*].
3. The respondent, [*respondent name*], shall leave [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]] [by [*date and time*]] / [within [*number 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].
4. Having left [the family home] / [the property] [and its surrounding gardens, land and outbuildings]] / [*specify part of the property*], the respondent, [*respondent name*], must not return to, enter or attempt to enter [or go within [*number*] metres of it], [except that the respondent may go to the property [without entering it]] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court].
5. The respondent, [*respondent name*], must not obstruct, harass, or interfere with the [applicants], [*applicant name*]’s, peaceful occupation of [[the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings]] / [[*specify part of*] [the family home] / [the property at [*property short name*]].

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

1. [The [applicant [*applicant name*]] [and] / [or] [respondent [*respondent name*]] shall maintain and repair [the family home] / [the property at [*property short name*]] [and its surrounding gardens, land and outbuildings].
2. [The [applicant [*applicant name*]] [and] / [or] [respondent [*respondent name*]] shall discharge the [mortgage payments] / [rental payments] in respect of [the family home] / [the property at [*property short name*]].
3. [The [applicant [*applicant name*]] [and] / [or] [respondent [*respondent name*]] shall discharge the following outgoings in respect of [the family home] / [the property at [*property short name*]]: [*specify outgoings*].
4. The applicant [*applicant name*] shall pay to the respondent [*respondent name*] £[*amount*] each [week] / [month], for the use of [the family home] / [the property at [*property short name*]].
5. The applicant [*applicant name*] shall keep and use the [furniture] / [contents] / [*specify* **(if necessary)**] of the [the family home] / [the property at [*property short name*]].
6. The respondent [*respondent name*] shall return to the applicant [*applicant name*] the [furniture] / [contents] / [*specify* **(if necessary)**] of [the family home] / [the property at [*property short name*]] by no later than [*time and date*].
7. The applicant [*applicant name*] shall take reasonable care of the [furniture] / [contents] / [*specify* **(if necessary)**] of [the family home] / [the property at [*property short name*]].
8. The applicant [*applicant name*] shall take all reasonable steps to keep secure [the family home] / [the property at [*property short name*]] and the [furniture] / [contents] / [*specify* **(if necessary)**].

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

1. Paragraph[s] [*para number*] of this order shall be effective against the respondent [*respondent name*] 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.
2. Paragraph[s] [*para number*] of this order shall last until [*date and time*] unless it is set aside or varied before then by an order of the court.
3. 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. [**(If appropriate)**The respondent must give [[*number* *of 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.
4. **(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 [*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.]
5. [A power of arrest is attached to paragraphs [*para number*] of this order.]

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

1. Paragraph[s] [*para number*] of this order shall be effective against the respondent [*respondent name*] 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.
2. Paragraph[s] [*para number*] of this order shall last until [*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.
3. Paragraph[s] [*para number*] of the occupation order made on [*date*] [is] / [are] extended until [*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.]
4. 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. [**(If appropriate)**The respondent must give [*number 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.
5. **(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 [*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.]
6. [A power of arrest is attached to paragraphs [*para number(s)*] of this order.]

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

1. Paragraph[s] [*para number*] of this order shall be effective against the respondent [*respondent name*] 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.
2. Paragraph[s] [*para number*] of this order shall last until [*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.
3. [Paragraph[s] [*para number*] of the occupation order made on [*date*] is extended until [*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.]
4. 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. [**(If appropriate)**The respondent must give [*number 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 [him] / [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.
5. **(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 [*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.]
6. [A power of arrest is attached to paragraph[s] [*para number*] of this order.]

**Hearings**

1. [The application[s] [is] / [are] listed for a further [directions] hearing in the Family Court sitting at [*name*] / [*place*] on [*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: [[*number*] 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.]
2. [The application[s] [is]/[are] listed for a final hearing in the Family Court sitting at [*court name*] / [*place*] on [*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: [[*number*] 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**

1. The costs of this application are [reserved to the judge hearing the application on the return date] / [in the application] / [*specify*].

Dated [*date*]

**Notice pursuant to PD 37A para 2.1**

You [*name*] may be held to be in contempt of court and imprisoned or fined, or your assets may be seized, if you break the promises that you have given to the court.

**Statement pursuant to PD 37A para 2.2(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, or fined, or my assets may be seized for contempt of court.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*applicant name*]

**Notice pursuant to PD 37A para 2.1**

You [*name*] may be held to be in contempt of court and imprisoned or fined, or your assets may be seized, if you break the promises that you have given to the court.

**Statement pursuant to PD 37A para 2.2(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, or fined, or my assets may be seized for contempt of court.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*respondent name*]

**(where the court has made an occupation order with a power of arrest a copy of the order must be delivered to the officer in charge of the police station for the applicant’s address, or such other police station as the court may specify, and must be accompanied by a statement showing that the respondent has been served with the order or informed of its terms: see fpr 2010, rule 10.10.)**

**Communications with the court**

All communications to the court about this order should be sent to –

[*court name*]

[*court address*]

Tel: [court telephone]

**Name and address of applicant’s legal representatives**

The applicant’s legal representatives are –

[*applicant firm name*][*applicant firm address*]

Ref: [*applicant solicitor ref*]

DX: [*applicant firm DX address*]

Email: [*applicant firm email*]

Phone: [*applicant firm telephone*] (office hours)

 [*applicant firm telephone (out of hours)*] (out of office hours)

Fax: [*applicant firm fax*]