

SCHEDULE 1

rule 3

Maintenance Orders Act 1950 (Summary Jurisdiction) Rules 1950

1. In rule 1—

- (a) in paragraph (1), omit “in a court having jurisdiction by virtue of subsection (3) of section 1 of the said Act”;
- (b) after paragraph (1), insert—

“(1A) Where proceedings under Part 1 of Schedule 6 to the Civil Partnership Act 2004⁽¹⁾ are begun against a defendant residing in Scotland or Northern Ireland, then, upon an application in that behalf made by the defendant in accordance with paragraph (2) of this Rule, a justice acting in the same place as that court may, if it appears that the case could be more conveniently heard in a court of summary jurisdiction having jurisdiction in the place where the parties last ordinarily resided together as civil partners, determine that the proceedings shall be removed into the last-mentioned court.”;
- (c) in paragraph (2)—
 - (i) for “paragraph” substitute “paragraphs”; and
 - (ii) for “section 1” substitute “provisions”;
- (d) in paragraph (3), after “(1)” insert “or (1A)”; and
- (e) in paragraph (4)—
 - (i) after “(1)” insert “or (1A)”; and
 - (ii) for “section 1” substitute “provisions”.

Magistrates' Courts (Guardianship of Minors) Rules 1974

2. In rule 5—

- (a) in the title, after marriage insert “or formation of civil partnership”;
- (b) after paragraph 1 insert—

“(1A) An application for the consent of the court to the formation of a civil partnership by a child under paragraph 3, 4 or 10 of Schedule 2 to the Civil Partnership Act 2004 (obtaining consent etc.) may be made, either orally or in writing, to a justice of the peace.”;
- (c) in paragraph (2)—
 - (i) after “paragraph (1)” insert “or (1A)”; and
 - (ii) after “marriage” insert “or to the civil partnership, as the case may be”; and
- (d) in paragraph (4), after “paragraph (1)” insert “or (1A)”.

Magistrates' Courts Rules 1981

3. In the Arrangement of Rules—

- (a) for the entry for rule 45 substitute—

“Duty of designated officer to notify subsequent marriage or formation of civil partnership of person entitled to payments under a maintenance order”; and
- (b) for the entry for rule 105 substitute—

(1) 2004 c. 33.

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“Application for alteration of maintenance agreement under s 35 of the Matrimonial Causes Act 1973(2) or paragraph 69 of Schedule 5 to the Civil Partnership Act 2004”.

4. In rule 39(6), after “the Act of 1978,” insert “paragraph 36(1) of Schedule 6 to the Civil Partnership Act 2004,”.

5. In rule 45—

- (a) in the heading, for “remarriage” substitute “subsequent marriage or formation of civil partnership”;
- (b) in paragraph (1), for “remarried” substitute “subsequently married or formed a civil partnership”; and
- (c) for paragraph (3), substitute—

“(3) This rule applies to an order of a kind mentioned in paragraph (4) and an attachment of earnings order made to secure payments under an order of that kind, and in paragraph (2) “relevant order” means any such order to which the payments referred to in paragraph (1) relate.

(4) The kinds of order referred to in paragraph (3) are orders to which the following provisions apply—

- (a) section 38 of the Matrimonial Causes Act 1973;
- (b) section 4(2) of the Act of 1978(3);
- (c) paragraph 65 of Schedule 5 to the Civil Partnership Act 2004; and
- (d) paragraph 26(2) of Schedule 6 to the Civil Partnership Act 2004.”.

6. In rule 51—

- (a) for “or” substitute “, ”; and
- (b) after “1978” insert “or paragraph 41 of Schedule 6 to the Civil Partnership Act 2004”.

7. In rule 69, after “the Act of 1978” insert “or under Schedule 6 to the Civil Partnership Act 2004,”.

8. In rule 99(6)(b), for “wives” substitute “husbands, wives or civil partners, as the case may be,”.

9. In rule 105—

- (a) in the heading, after “Matrimonial Causes Act 1973” insert “or under paragraph 69 of Schedule 5 to the Civil Partnership Act 2004”; and
- (b) after “Matrimonial Causes Act 1973” insert “, under paragraph 69 of Schedule 5 to the Civil Partnership Act 2004”.

Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991

10. In the Arrangement of Rules—

- (a) in the heading below “Part II”—
 - (i) for “Family Law Act 1986(4) and” substitute “Family Law Act 1986,”; and
 - (ii) after “Family Law Act 1996(5)” insert “and Proceedings under the Civil Partnership Act 2004”;
- (b) for the entry for rule 17, substitute—

(2) 1973 c. 18.

(3) The reference is the Domestic Proceedings and Magistrates' Courts Act 1988 (c. 22).

(4) 1986 c. 55.

(5) 1996 c. 27.

“Orders made under section 6 of the Act or Part 2 of Schedule 6 to the Act of 2004 in the absence of the respondent”;

- (c) for the entry for rule 18 substitute—

“Application under section 7 of the Act or Part 3 of Schedule 6 to the Act of 2004”

- (d) after the entry for rule 19 insert—

“**19A** Respondent on application under Part 6 of Schedule 6 to the Act of 2004”;

- (e) for the entry for rule 22 substitute—

“Proceedings by or against a person outside England and Wales for variation or revocation of orders under section 20 of the Act or paragraphs 30 to 34 of Schedule 6 to the Act of 2004”; and

- (f) in the heading below “Part II”—

(i) for “FAMILY LAW ACT 1986 AND”, substitute “FAMILY LAW ACT 1986,”; and

(ii) after “FAMILY LAW ACT 1996”, insert “AND PROCEEDINGS UNDER THE CIVIL PARTNERSHIP ACT 2004”.

11. In rule 2—

- (a) in paragraph (1)—

(i) in the definition of “application”, after “the Act” insert “, the Act of 2004”;

(ii) in the definition of the Act for “.” substitute “,”; and

(iii) after the definition of the Act insert—

““the Act of 2004” means the Civil Partnership Act 2004.”; and

- (b) in paragraph (2), after “the Act,” insert “the Act of 2004,”.

12. In rule 3—

(a) in paragraph (1), omit “, together with any notice attached under paragraph 2(c),”; and

(b) in paragraph (3), after “the Act” insert “or paragraph 14 of Schedule 6 to the Act of 2004”.

13. In rule 5, after “of the Act,” insert “or under Part 1, 2 or 3, or paragraphs 30 to 34, of Schedule 6 to the Act of 2004,”.

14. In rule 16(1), after “the Act” insert “or paragraphs 30 to 34 of Schedule 6 to the Act of 2004, as the case may be,”.

15. In rule 17—

(a) for the heading substitute “Orders made under section 6 of the Act or Part 2 of Schedule 6 to the Act of 2004 in the absence of the respondent”; and

(b) after “the Act” insert “or sub-paragraph (a), (b) or (c) of paragraph 11(2) of Schedule 6 to the Act of 2004”.

16. In rule 18—

(a) for the heading substitute “Application under section 7 of the Act or Part 3 of Schedule 6 to the Act of 2004”; and

(b) after paragraph (1), insert—

“(1A) Where, under paragraph 18 of Schedule 6 to the Act of 2004, a court decides to treat an application under Part 3 of Schedule 6 as if it were an application for an order under Part 1 of that Schedule, the court shall indicate orally which of grounds (a) and

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(b) in paragraph 18(1) it considers applicable and a memorandum of the decision and the grounds therefor shall be entered in the court's register.”.

17. After rule 19 insert—

“Respondent on application under Part 6 of Schedule 6 to the Act of 2004

19A.—(1) The respondent on an application for a variation or revocation of an order under paragraphs 30 to 34 of Schedule 6 to the Act of 2004 shall be the party to the civil partnership in question other than the applicant and, where the order requires payments to be made to or in respect of a child who is 16 years of age or over, that child.

(2) The respondents on an application for the revival of an order under paragraph 40 of Schedule 6 to the Act of 2004 shall be the parties to the proceedings leading to the order which it is sought to have revived.”.

18. In rule 22—

- (a) for the heading substitute “Proceedings by or against a person outside England and Wales for variation or revocation of orders under section 20 of the Act or paragraphs 30 to 34 of Schedule 6 to the Act of 2004”;
- (b) in paragraph (1), after “the Act” insert “or paragraphs 30 to 34 of Schedule 6 to the Act of 2004”;
- (c) in paragraph (2), after “the Act” insert “or under paragraphs 30 to 34 of Schedule 6 to the Act of 2004”; and
- (d) in paragraph (4), after “the Act” insert “or under paragraphs 30 to 34 of Schedule 6 to the Act of 2004”.

19. For rule 23(2) substitute—

“(2) Where—

- (a) in proceedings under the Act, the hearing of an application under section 2 of that Act is adjourned after the court has decided that it is satisfied of any ground mentioned in section 1; or
- (b) in proceedings under the Act of 2004, the hearing of an application under Part 1 of Schedule 6 to that Act is adjourned after the court has decided that it is satisfied of any ground mentioned in paragraph 1,

and the parties to the proceedings agree to the resumption of the hearing in accordance with section 31 of the Act by a court which includes justices who were not sitting when the hearing began, particulars of the agreement shall be entered in the court's register.”.

20. In Form 1—

- (a) in the heading after “(DPMC Act 1978)” insert “OR PART 1 OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004”;
- (b) for “under section 2 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground(s) that the respondent—” substitute—

“under:—

[section 2 of the Domestic Proceedings and Magistrates' Courts Act 1978]

[Part 1 of Schedule 6 to the Civil Partnership Act 2004]

on the ground(s) that the respondent—”;

- (c) in the Statement of Means of Applicant, in paragraph 1, after “ Married” insert “ Civil Partner”; and

- (d) in the Statement of Means of Respondent, in paragraph 1, after “ Married” insert “ Civil Partner”.

21. In Form 2—

- (a) in the heading after “(DPMC Act 1978)” insert “OR PART 2 OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004”;
- (b) for “under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground that s/he/the respondent has agreed to:—” substitute—
“under:—
[section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978]
[Part 2 of Schedule 6 to the Civil Partnership Act 2004]
on the ground that s/he/ the respondent has agreed to:—”;
- (c) in the Statement of Means of Applicant, in paragraph 1, after “ Married” insert “ Civil Partner”; and
- (d) in the Statement of Means of Respondent, in paragraph 1, after “ Married” insert “ Civil Partner”.

22. In Form 3—

- (a) in the heading after “(DPMC Act 1978)” insert “OR PART 3 OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004”;
- (b) for the paragraph beginning “who applies for an order for financial provision” substitute—
“who applies for an order for financial provision under:—
[section 7 of the Domestic Proceedings and Magistrates' Courts Act 1978]
[Part 3 of Schedule 6 to the Civil Partnership Act 2004]
not exceeding the aggregate of the payments made to the applicant during the last three months; and states that he/she has been living apart from h. husband/wife/civil partner for a continuous period exceeding three months, neither of them have deserted the other, and that h husband/wife/civil partner has been making periodical payments for (h benefit) (and) (the benefit of (name(s)) being a child/children of the family).”
- (c) in the Statement of Means of Applicant, in paragraph 1, after “ Married” insert “ Civil Partner”; and
- (d) in the Statement of Means of Respondent, in paragraph 1, after “ Married” insert “ Civil Partner”.

23. In Form 4—

- (a) in the heading after “(DPMC Act 1978)” insert “OR PARAGRAPHS 30 TO 34 OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004”;
- (b) for “under section 20 of the Domestic Proceedings and Magistrates' Courts Act 1978 for an order” substitute—
“under:—
[section 20 of the Domestic Proceedings and Magistrates' Courts Act 1978”;
- (c) for “[to [vary] [revoke] an order made under [section 2(1)(b)] [section 2(1)(c)] [section 2(1)(d)]” substitute—
“[to [vary] [revoke] an order made under [section 2(1)(a)] [section 2(1)(b)] [section 2(1)(c)] [section 2(1)(d)]”;

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- (d) for “[to [vary] [revoke] an order made under section 19]” substitute—
 - “[to [vary]][revoke] an order made under section 19
 - [paragraphs 30 to 34 of Schedule 6 of the Civil Partnership Act 2004
 - [to [vary] [revoke] a [paragraph 2(1)(a)] [paragraph 2(1)(b)] [paragraph 2(1)(c)] [paragraph 2(1)(d)] order]
 - [to [vary]][revoke] an order made under Part 2]
 - [for the payment of a lump sum [to the other party to the civil partnership] [to a child of the family] [to the other party to the civil partnership for the benefit of a child of the family]]
 - [to [vary]][revoke] an order made under Part 3]
 - [to [vary]][revoke] an order made under Part 4]]”;
 - (e) in the Statement of Means of Applicant after “ Married” insert “ Civil Partner”;
 - (f) in the Statement of Means of Respondent after “ Married” insert “ Civil Partner”.
- 24. In Form 5—**
- (a) in the heading, after “and (b))”, insert “OR UNDER PART 2 OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004 (paragraph 11(2)(a) and(b))”;
 - (b) for “under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 in the terms set out in the application dated which I have received.” substitute—
 - “under:–
 - [section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978]
 - [Part 2 of Schedule 6 to the Civil Partnership Act 2004]
 - in the terms set out in the application dated which I have received.”;
 - (c) for “under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 in the following terms:–” substitute—
 - “under:–
 - [section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978]
 - [Part 2 of Schedule 6 to the Civil Partnership Act 2004]
 - in the following terms:–”; and
 - (d) in the Statement of Means of Respondent, in paragraph 1, after “ Married” insert “ Civil Partner”.
- 25. In Form 6—**
- (a) in the heading after “(DPMC Act 1978, s 6(9)(c))” insert “OR PARAGRAPH 11(2)(c) OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004”; and
 - (b) in the Statement of Means of Child after “ Married” insert “ Civil Partner”.
- 26. In Form 7—**
- (a) in the heading after “(DPMC 1978, s 7(4))” insert “OR TO TREAT APPLICATION UNDER PART 3 OF SCHEDULE 6 TO THE CIVIL PARTNERSHIP ACT 2004 AS APPLICATION FOR ORDER UNDER PART 1 OF SCHEDULE 6 (paragraph 18)”;
 - (b) for “You are hereby notified” substitute “[You are hereby notified]”; and
 - (c) for “power to make under section 7” substitute—
 - “power to make under section 7]

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[You are hereby notified that the above named Magistrates' Court at the hearing of the application made on *(date)* by your civil partner for an order under Part 3 of Schedule 6 to the Civil Partnership Act 2004 (being an order for financial provision not exceeding the aggregate of the payments made to the applicant during the preceding three months) has decided, under paragraph 18(2)(b) of that Schedule, to treat the application as if it were an application under Part 1 of Schedule 6 (for an order for such payments as the court may specify) because the court considers that the orders which it has the power to make under Part 3 of Schedule 6]

27. After Form 9, insert as Form 9A the form as set out in Schedule 2 to these Rules.
28. For Form FL401, substitute the form as set out in Schedule 3 to these Rules.
29. In Form FL402, in note 4—
 - (a) after “marriage” insert “or civil partnership”;
 - (b) after “divorce proceedings etc)” insert—

“or

under Part 2 of Schedule 5 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)”;
 - (c) after “husband and wife” insert “or civil partners”.
30. In the section following Form FL404 headed “Orders under Family Law Act 1996 Part IV”—
 - (a) in paragraphs 2 and 3, omit “matrimonial”; and
 - (b) in paragraph 3, for “marriage” substitute “[marriage][civil partnership]”.
31. In Form FL416, omit “matrimonial” on each occasion that it appears.
32. In Form FL423—
 - (a) in paragraph 2—
 - (i) in sub-paragraph (1), for “the father or mother” substitute “a parent”; and
 - (ii) for sub-paragraph (3), substitute—

“(3) If the mother, or alleged mother, of the person whose parentage is in issue has previously been known by different names state (if you know it)—

 - (a) each full name by which she has previously been known, and
 - (b) the dates between which she was known by each name.”; and
 - (b) in paragraph 8, for “the mother or father” substitute “a parent”.

Family Proceedings Courts (Children Act 1989) Rules 1991

33. In the entry for rule 24 in the Arrangement of Rules, after “residence order” insert “or special guardianship order”.
34. In rule 1(2), after the definition of “section 8 order” insert—

““special guardianship order” has the meaning assigned to it by section 14A,”.
35. In rule 2(5)(c), after “4(3)(b),” insert “4A(3)(b),”.
36. In rule 3(2), after “person making the request”, wherever it appears, insert “and any local authority that is preparing, or has prepared, a report under section 14A(8) or (9)”.
37. In rule 5(4)(a)(iii) and (b), after “parties,” insert “any local authority that is preparing, or has prepared, a report under section 14A(8) or (9),”.

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38. In rule 6(2), after sub-paragraph (a) insert—
“(aa) to any local authority that is preparing, or has prepared, a report under section 14A(8) or (9),”.
39. In rule 7(3)—
(a) in sub-paragraphs (a) and (b)(ii), after “parties” insert “and any local authority that is preparing, or has prepared, a report under section 14A(8) or (9)”; and
(b) in sub-paragraph (b)(i), after “applicant” insert “and any local authority that is preparing, or has prepared, a report under section 14A(8) or (9)”.
40. In rule 9, after “section 8 order” insert “, a special guardianship order”.
41. In rule 11A(6)(b), after “parties” insert “and any local authority that is preparing, or has prepared, a report under section 14A(8) or (9)”.
42. In rules 11B(2)(b)(ii) and 13(1), after “parties” insert “, any local authority that is preparing, or has prepared, a report under section 14A(8) or (9)”.
43. In rule 14—
(a) for paragraph (1), substitute—
“(1) In this rule, “party” includes the children’s guardian and, where a request or direction concerns a report under—
(a) section 7, the welfare officer or children and family reporter; or
(b) section 14A(8) or (9), the local authority preparing that report.”; and
(b) in paragraph (2), after sub-paragraph (i) insert—
“(j) the preparation of reports under section 14A(8) or (9);
(k) the attendance of the person who prepared the report under section 14A(8) or (9) at any hearing at which the report is to be considered;”.
44. In rule 15(5)(c)(ii), after “parties” insert “, any local authority that is preparing, or has prepared, a report under section 14A(8) or (9)”.
45. In rule 17—
(a) in paragraph (1), after “parties,” insert “any local authority that is preparing, or has prepared, a report under section 14A(8) or (9),”; and
(b) in paragraphs (4) and (5), after “section 8 order” insert “or a special guardianship order”.
46. After rule 17, insert—

“Disclosure of report under section 14A(8) or (9)

17A.—(1) In proceedings for a special guardianship order, the local authority shall file the report under section 14A(8) or (9) within the timetable fixed by the court.

(2) The justices' clerk or the court shall consider whether to give a direction that the report under section 14A(8) or (9) be disclosed to each party to the proceedings.

(3) Before giving such a direction the justices' clerk or the court shall consider whether any information should be deleted including information which reveals the party’s address in a case where he has declined to reveal it in accordance with rule 33A (disclosure of addresses).

(4) The justices' clerk or the court may direct that the report will not be disclosed to a party.

(5) The designated officer shall serve a copy of the report filed under paragraph (1)—

- (a) in accordance with any direction given under paragraph (2); and
 - (b) on any children’s guardian, welfare officer or children and family reporter.”.
- 47. In rule 21—
 - (a) after paragraph (3), insert—
 - “(3A) At the hearing at which the report under section 14A(8) or (9) is considered a party to whom the report, or part of it, has been disclosed may question the person who prepared the report about it.”; and
 - (b) in paragraph (7)(b), after “living” insert “, and where applicable, on the local authority that prepared the report under section 14A(8) or (9)”.
- 48. In rule 23A—
 - (a) in paragraph (2), in the second entry in the table, after “spouse,” (in both cases) insert “civil partner,”; and
 - (b) in paragraph (5), for the definition of “cohabitant” substitute—
 - ““cohabitant” means one of two persons who are neither married to each other nor civil partners of each other but are living together as husband and wife or as if they were civil partners;”.
- 49. In rule 24, after “residence order” wherever it appears insert “or special guardianship order”.
- 50. In Schedule 1—
 - (a) in the list of forms—
 - (i) after the entry relating to Form C13, in the first column insert “C13A”, in the second column insert “Supplement”, and in the third column insert “for an application for a Special Guardianship Order”; and
 - (ii) after the entry relating to Form C43, in the first column insert “C43A”, in the second column insert “Order”, and in the third column insert “Special Guardianship Order”;
 - (b) in Form C1, in paragraph 10—
 - (i) for “mother and father” substitute “parents”; and
 - (ii) after “married to each other” insert “or civil partners of each other”;
 - (c) in Form C10A—
 - (i) in paragraph 1, after “married,” insert “in a civil partnership,”; and
 - (ii) in paragraph 2, after “spouse,” insert “civil partner,”;
 - (d) in Form C44 after “[13(1)]”, each time it occurs, insert “[14C(3)]”;
 - (e) in Form C45—
 - (i) for “Section 4(1)” substitute “Section [4(1)] [4A(1)]”; and
 - (ii) for “Section 4(2A)” substitute “Section [4(2A)] [4A(3)]”; and
 - (f) insert as Forms C13A and C43A the forms as set out in Schedule 4 to these Rules.
- 51. In Schedule 2, in the entry relating to section 4(1)(c), 4(3), 5(1) etc—
 - (a) in column (i)—
 - (i) after “4(3),” insert “4A(1)(b), 4A(3),”; and
 - (ii) after “13(1),” insert “14A, 14C(3), 14D,”;
 - (b) at the end of column (iii), add—
 - “in the case of an application under section 14A, if a care order is in force with respect to the child, the child”; and

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(c) at the end of column (iv), add—

“in the case of an application under section 14A—

- (a) if the child is not being accommodated by the local authority, the local authority in whose area the applicant is ordinarily resident, and
- (b) every other person whom the applicant believes—
 - (i) to be named in a court order with respect to that child which remains in force,
 - (ii) to be a party to pending proceedings in respect of the same child,
 - (iii) to be a person with whom the child has lived for at least 3 years prior to the application,

unless, in a case to which (i) or (ii) applies, the applicant believes that the court order or pending proceedings are not relevant to the application;

in the case of an application under section 14D—

- (a) as for applications under section 14A above, and
- (b) the local authority that prepared the report under section 14A(8) or (9) in the proceedings leading to the order which it is sought to have varied or discharged, if different from any local authority that will be otherwise be notified ”.

SCHEDULE 2

Paragraph 27 of Schedule 1

FORM 9A

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Rule 12(7)(a)

Orders under Part 1, 2, or 3
or Schedule 6 to the
Civil Partnership Act 2004

In the	Magistrates' Court
Case No.	
Date	

Respondent	<input type="text"/>	
Address	<input type="text"/>	
Child(ren) of the family	Name	Date of birth
	<input type="text"/>	<input type="text"/>
On the application of	<input type="text"/>	
Address	<input type="text"/>	
Application	Particulars <input type="text"/>	

(Part [1] [2] [3] of Schedule 6 to the Civil Partnership Act 2004)
[The application is granted and] it is ordered that:

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Orders for Financial Provision

Paragraph 2(1)(a)/
Paragraph 10(1)(a)/
Paragraph 16(1)(a)
of Schedule 6 to the
Civil Partnership Act 2004

[The respondent do pay to the applicant £ per
from until]

Paragraph 2(1)(b)/
Paragraph 10(1)(b)
of Schedule 6 to the
Civil Partnership Act 2004

[The respondent do pay to the applicant a lump sum of £
(specify conditions of payment)]

Paragraph 2(1)(c)/
Paragraph 10(1)(c)
Paragraph 16(1)(b)
of Schedule 6 to the
Civil Partnership Act 2004

[The [respondent / applicant] pay [to the applicant / respondent]
for the benefit of (name of child)]

[to (name of child)

£ per from
until]

Paragraph 2(1)(d)/
Paragraph 10(1)(d)
of Schedule 6 to the
Civil Partnership Act 2004

[The [respondent / applicant] pay [to the applicant / respondent]
for the benefit of (name of child)]

[to (name of child)

a lump sum of £ specify conditions of payment)]

[Payments under the above orders are to be made in the following way:]

Supplementary

[(Any appropriate direction under paragraph 29(4) of Schedule 6 to the
Civil Partnership Act 2004)]

[The respondent do pay costs of £ to the applicant.
(specify conditions of payment)]

Justice of the Peace
[By Order of the Court
Justices' Clerk]

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Rule 3A

Application for:
a non-molestation order
an occupation order

Family Law Act 1996 (Part IV)

The court

To be completed by the court

Date issued

Case number

Please read the accompanying notes as you complete this form.

1 About you (the applicant)

State your title (Mr, Mrs etc), full name, address, telephone number and date of birth (if under 18):

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

2 About the respondent

State the respondent's name, address and date of birth (if known):

3 The Order(s) for which you are applying

This application is for:

- a non-molestation order
- an occupation order
- Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the statement in support.

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**4 Your relationship to the respondent
(the person to be served with this
application)**

Your relationship to the respondent is:

(Please tick only one of the following)

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

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-
- 13 One of you is the natural parent or grandparent of a child adopted, placed or freed for adoption, and the other is:
- (i) the adoptive parent
 - or (ii) a person who has applied for an adoption order for the child
 - or (iii) a person with whom the child has been placed for adoption
 - or (iv) the child who has been adopted, placed or freed for adoption.
- State whether (i), (ii), (iii) or (iv):
- 14 Both of you are the parties to the same family proceedings (see also Section 11 below).

5 Application for a non-molestation order

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

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

6 Application for an occupation order

If you do not wish to apply for an occupation order, please go to section 9 of this form.

- (A) State the address of the dwelling-house to which your application relates:
- (B) State whether it is occupied by you or the respondent now or in the past, or whether it was intended to be occupied by you or the respondent:
- (C) State whether you are entitled to occupy the dwelling-house: Yes No

If yes, explain why:

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(D) State whether the respondent is entitled to occupy the dwelling-house: Yes No

If yes, explain why:

On the basis of your answers to (C) and (D) above, tick one of the boxes 1 to 6 below to show the category into which you fit

1 a spouse or civil partner who has home rights in the dwelling-house, or a person who is entitled to occupy it by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation.

If you tick box 1, state whether there is a dispute or pending proceedings between you and the respondent about your right to occupy the dwelling-house.

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

6 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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Home Rights

If you do have home rights please:

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

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

If you wish to apply for an occupation order, state briefly here the order you want. Give full details in support of your application in your supporting evidence:

7 Application for additional order(s) about the dwelling-house

If you want to apply for any of the orders listed in the notes to this section, state what order you would like the court to make:

8 Mortgage and rent

Is the dwelling-house subject to a mortgage?

Yes No

If yes, please provide the name and address of the mortgagee:

Is the dwelling-house rented?

Yes No

If yes, please provide the name and address of the landlord:

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9 At the court

Will you need an interpreter at court?

Yes No

If yes, specify the language:

If you require an interpreter, you must notify the court immediately so that one can be arranged.

If you have a disability for which you require special assistance or special facilities, please state what your needs are. The court staff will get in touch with you about your requirements.

10 Other information

State the name and date of birth of any child living with or staying with, or likely to live with or stay with, you or the respondent:

State the name of any other person living in the same household as you and the respondent, and say why they live there:

11 Other Proceedings and Orders

If there are any other current family proceedings or orders in force involving you and the respondent, state the type of proceedings or orders, the court and the case number. This includes any application for an occupation order or non-molestation order against you by the respondent.

This application is to be served upon the respondent

Signed:

Date:

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Application for non-molestation order or occupation order

Notes for guidance

Section 1

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete Confidential Address Form C8. The court can give you this form.

If you are under 18, someone over 18 must help you make this application. That person, who might be one of your parents, is called a 'next friend'.

If you are under 16, you need permission to make this application. You must apply to the High Court for permission, using this form. If the High Court gives you permission to make this application, it will then either hear the application itself or transfer it to a county court.

Section 3

An urgent order made by the court before the notice of the application is served on the respondent is called an ex-parte order. In deciding whether to make an ex-parte 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 deterred or prevented from pursuing the application if an order is not made immediately
- whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved.

If the court makes an ex-parte order, it must give the respondent an opportunity to make representations about the order as soon as just and convenient at a full hearing.

'Harm' in relation to a person who has reached the age of 18 means ill-treatment or the impairment of health, and in relation to a child means ill-treatment or the impairment of health and development.

'Ill-treatment' includes forms of ill-treatment which are not physical and, in relation to a child, includes sexual abuse. The court will require evidence of any harm which you allege in support of your application.

Section 4

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

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

Those who live or have lived in the same household do not include people who share the same household because one of them is the other's employee, tenant, lodger or boarder.

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

(A) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson, granddaughter of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

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

This includes, in relation to a person who is living or has lived with another person as husband and wife or as civil partners, any person who would fall within (A) or (B) if the parties were married to, or civil partners of, each other (for example, your cohabitee's father or brother).

Agreements to marry: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

evidence in writing

or the gift of an engagement ring in contemplation of marriage

or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Agreements to form a civil partnership: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

evidence in writing

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

or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

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Section 4 continued

Parents and parental responsibility:

You will fall within this category if

both you and the respondent are either the parents of the child or have parental responsibility for that child

or if one of you is the parent and the other has parental responsibility.

Under the Children Act 1989, parental responsibility is held automatically by a child's mother, and by the child's father if he and the mother were married to each other at the time of the child's birth or have married subsequently. Where, a child's father and mother are not married to each other at the time of the child's birth, the father may also acquire parental responsibility for that child, if he registers the birth after 1st December 2003, in accordance with section 4(1)(a) of the Children Act 1989. Where neither of these circumstances apply, the father, in accordance with the provisions of the Children Act 1989, can acquire parental responsibility.

From 30 December 2005, where a person who is not the child's parent ("the step-parent") is married to, or a civil partner of, a parent who has parental responsibility for that child, he or she may also acquire parental responsibility for the child in accordance with the provisions of the Children Act 1989.

Section 5

A non-molestation order can forbid the respondent from molesting you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

Section 6

If you wish to apply for an occupation order but you are uncertain about your answer to any question in this part of the application form, you should seek legal advice.

(A) A dwelling-house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.

(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling-house:

- (a) Are you the sole legal owner of the dwelling-house?
- (b) Are you and the respondent joint legal owners of the dwelling-house?
- (c) Is the respondent the sole legal owner of the dwelling-house?
- (d) Do you rent the dwelling-house as a sole tenant?
- (e) Do you and the respondent rent the dwelling-house as joint tenants?

(f) Does the respondent rent the dwelling-house as a sole tenant?

If you answer

- **Yes** to (a), (b), (d) or (e) you are likely to be entitled to occupy the dwelling-house
- **Yes** to (c) or (f) you may not be entitled (unless, for example, you are a spouse or civil partner and have home rights – see notes under 'Home Rights' below)
- **Yes** to (b), (c), (e) or (f), the respondent is likely to be entitled to occupy the dwelling-house
- **Yes** to (a) or (d) the respondent may not be entitled (unless, for example, he or she is a spouse or civil partner and has home rights).

Box 1 For example, if you are sole owner, joint owner or if you rent the property. If you are not a spouse, former spouse, civil partner, former civil partner, cohabitant or former cohabitant of the respondent, you will only be able to apply for an occupation order if you fall within this category.

If you answer yes to this question, it will not be possible for a magistrates' court to deal with the application, unless the court decides that it is unnecessary for it to decide this question in order to deal with the application or make the order. If the court decides that it cannot deal with the application, it will transfer the application to a county court.

Box 2 For example, if the respondent is or was married to you, or if you and the respondent are or were civil partners, and he or she is sole owner or rents the property.

Box 3 For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

Home Rights

Where one spouse or civil partner "**(A)**" is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse or civil partner "**(B)**" is not so entitled, then **B** (who is not entitled) has home rights.

The rights are

- (a) if **B** is in occupation, not to be evicted or excluded from the dwelling-house except with the leave of the court; and
- (b) if **B** is not in occupation, the right, with the leave of the court, to enter into and occupy the dwelling-house.

Note: Home Rights do not exist if the dwelling-house has never been, and was never intended to be, the matrimonial or civil partnership home of the two spouses or civil partners. If the marriage or civil partnership has come to an end, home rights will also have ceased, unless a court order has been made during the marriage or civil partnership for the rights to continue after the end of that relationship.

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Section 6 (continued)

Occupation Orders

The possible orders are:

If you have ticked box 1 above, an order under section 33 of the Act may:

- enforce the applicant's entitlement to remain in occupation as against the respondent
- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both parties
- if the respondent is also entitled to occupy, the order may prohibit, suspend or restrict the exercise by him, of that right
- restrict or terminate any home rights of the respondent
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house
- declare that the applicant is entitled to occupy the dwelling-house or has home rights in it
- provide that the home rights of the applicant are not brought to an end by the death of the other spouse or civil partner or termination of the marriage or civil partnership.

If you have ticked box 2 or box 3 above, an order under section 35 or 36 of the Act may:

- give the applicant the right not to be evicted or excluded from the dwelling-house or any part of it by the respondent for a specified period
- prohibit the respondent from evicting or excluding the applicant during that period
- give the applicant the right to enter and occupy the dwelling-house for a specified period
- require the respondent to permit the exercise of that right
- regulate the occupation of the dwelling-house by either or both of the parties
- prohibit, suspend or restrict the exercise by the respondent of his right to occupy
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

If you have ticked box 4 or box 5 above, an order under section 37 or 38 of the Act may:

- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both of the parties
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

You should provide any evidence which you have on the following matters in your evidence in support of this application. If necessary, further statements may be submitted after the application has been issued.

If you have ticked box 1, box 4 or box 5 above, the court will need any available evidence of the following:

- the housing needs and resources of you, the respondent and any relevant child
- the financial needs of you and the respondent
- the likely effect of any order, or 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 have ticked box 2 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the length of time that has elapsed since you and the respondent ceased to live together
- where you and the respondent were married, the length of time that has elapsed since the marriage was dissolved or annulled
- where you and the respondent were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership

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Section 6 (continued)

- the existence of any pending proceedings between you and the respondent:
 - under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders in connection with divorce proceedings etc.)
- or under Part 2 of Schedule 5 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)
- or under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 (orders for financial relief against parents)
- or relating to the legal or beneficial ownership of the dwelling-house.

If you have ticked box 3 above, the court will need any available evidence of:

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

Section 7

Under section 40 of the Act the court may make the following additional orders when making an occupation order:

- impose on either party obligations as to the repair and maintenance of the dwelling-house
- impose on either party obligations as to the payment of rent, mortgage or other outgoings affecting it
- order a party occupying the dwelling-house to make periodical payments to the other party in respect of the accommodation, if the other party would (but for the order) be entitled to occupy it

- grant either party possession or use of furniture or other contents
- order either party to take reasonable care of any furniture or other contents
- order either party to take reasonable steps to keep the dwelling-house and any furniture or other contents secure.

Section 8

If the dwelling-house is rented or subject to a mortgage, the landlord or mortgagee must be served with notice of the proceedings in Form FL416. He or she will then be able to make representations to the court regarding the rent or mortgage.

Section 10

A person living in the same household may, for example, be a member of the family or a tenant or employee of you or the respondent.

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Supplement for an application for a Special Guardianship Order Section 14A Children Act 1989

Name of court	
Case no.	
Date issued	

Full name(s) of the child(ren)	Child(ren's) number(s)

1. Your relationship to the child(ren)

State whether

- you are a guardian
- you are a person in whose favour a residence order is in force (Section 14A (5)(b))
- you are a person with whom the child has lived for 3 out of the last 5 years
- you are a person who:
 - if a residence order is in force, has the consent of every person in whose favour the order was made
 - if the child is in the care of the local authority, the consent of that authority
 - in any other case, has the consent of every person with parental responsibility
- you are a local authority foster parent with whom the child has lived for a period of at least one year immediately preceding the application (Section 14A(5)(d))
- you are applying to the court for permission to make this application; or
- the court gave permission for you to apply for a special guardianship order. In this case please state the name of the court and the date of the order.

2. Notification to the Local Authority

Please state below the name of the local authority (if the child is looked after by a local authority, give details of that authority otherwise give the details of the local authority where you normally live). Give the date on which you notified them of your intention to make an application to the court for a special guardianship order (Section 14A(7)). If you notified the local authority less than three months before making this application please state whether an application to adopt the child named above has been made; the name of the court in which the application is proceeding and, where known, the court case number.

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3. The reason(s) for the application:

State briefly your reasons for applying. Please only provide brief details, including brief details of any request you have made or will be making to the local authority for special guardianship support services. You may be asked to provide a full statement later.

4. Your plans for the child(ren)

Include

- details of any existing arrangements or arrangements you intend to make to allow the child(ren) contact with a parent, relative or other person (Section 14B(1)(a))
- details of any existing residence, contact, prohibited steps or specific issues order which you would like the court to vary or discharge (Section 14B(1)(b))
- any condition you will invite the court to impose pursuant to Section 14E(5) of the Children Act 1989

Signed _____
(Applicant)

Date _____

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In the

Case Number:

Child(ren's) Number(s):

Order	[Special Guardianship Order Section 14A(1) Children Act 1989] [Variation of a Special Guardianship Order Section 14D(1) Children Act 1989] [Discharge of a Special Guardianship Order Section 14D(1) Children Act 1989]
	<hr/>
	The full name(s) of the child(ren) Date(s) of Birth

The Court Orders

Warning Where a Special Guardianship Order is in force no person may cause the child[ren] to be known by a new surname or remove the child[ren] from the United Kingdom without either the written consent of every person who has parental responsibility for the child[ren] or the leave of the court.

However, this does not prevent the removal of [a] [the] child[ren], for a period less than 3 months, by [his][her][their] special guardian(s)] (Section 14C (3) and (4) Children Act 1989).

It may be a criminal offence under the Child Abduction Act 1984 to remove the child[ren] from the United Kingdom without leave of the court.

Notice Any person with parental responsibility for [a] child[ren] may obtain advice on what can be done to prevent the issue of a passport to the child[ren]. They should write to The United Kingdom Passport Agency, [Globe House, 89 Eccleston Square, LONDON, SW1V 1PN].

Ordered by	[Mr] [Mrs] Justice [His] [Her] Honour Judge District Judge [of the Family Division] District Judge (Magistrates' Courts) Justice[s] of the Peace Recorder
	<hr/>
On	at [am] [pm]

C134