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



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

**[The Matrimonial Causes Act 1973] /**

**[The Civil Partnership Act 2004] /**

**[The Child Support Act 1991] /**

**[Schedule 1 to the Children Act 1989] /**

**[The Inheritance (Provision for Family and Dependants) Act 1975] /**

**[The Matrimonial and Family Proceedings Act 1984 and Schedule 7 to the Civil Partnership Act 2004] /**

**[The Trusts of Land and Appointment of Trustees Act 1996] /**

**[The Married Women’s Property Act 1882 and ss 67, 68 and 74 of the Civil Partnership Act 2004]**

**(Delete as appropriate)**

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

**(Adapt as necessary)**

After hearing [*name of advocates*]

After consideration of the documents lodged by the parties

**(In the case of an order made without notice)** After reading the statements and hearing the witnesses specified in para [*para number*] of the Recitals below

**ORDER MADE BY [*NAME OF JUDGE*] ON [*DATE*] SITTING IN [OPEN COURT] / [PRIVATE]**

**(Delete as appropriate)**

|  |
| --- |
| **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. [(In without notice cases) 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, FINED OR HAVE YOUR ASSETS SEIZED**  **YOU MAY ALSO BE PREVENTED FROM MAKING ANY APPLICATION TO COURT IF YOU DO NOT DISCHARGE THESE OBLIGATIONS BY THE DUE DATE.** |

**The parties**

1. The applicant is [*applicant name*]

The respondent is [*respondent name*]

Further respondent(s): [*further respondents names*]

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

**Definitions**

1. Family home

The “family home” shall mean [*family home name*] registered at the Land Registry with title number [*title number*].

1. Other properties

“[*Other property name*]” is [*other property address*] registered at the Land Registry with title number [*title number*].

1. "The mortgage" shall mean the mortgage secured upon [*property name*] in favour of [*name of mortgagee*].
2. “The net proceeds of sale” shall mean the actual sale price of the property concerned (including any sum paid for fixtures and fittings) less the amount outstanding on the mortgage, the solicitors’ conveyancing costs, estate agents’ costs and any other costs in connection with the sale which have been agreed by the parties.

**Recitals**

1. **(In the case of an order made without notice)**
   1. This order was made at a hearing without notice to the respondent. The reason why the order was made without notice to the respondent was [*insert*];
   2. The Judge read the following [affidavits] / [witness statements] / [*insert*] and heard oral testimony from [*name*].
2. **(In the case of an order made following the giving of short informal notice)**

This order was made at a hearing without full notice having been given to the respondent. The reason why the order was made without full notice having been given to the respondent was [*insert*].

**Findings of the court**

1. [*Name of judge*] made an order on [date] requiring the respondent to [*insert* **(e.g. ‘pay a lump sum to the applicant of £[amount] by [date and time])**]
2. [*Insert findings of breach*]
3. The court is satisfied that:
   1. **(for example)** the respondent has made no realistic proposal as to how [he / she] will [be able to] discharge the obligations under the order of [*date*] within a reasonable time-frame; and
   2. consequently, an order for the sale of [the family home] / [*other property name*] is reasonably required to enable [him] / [her] to discharge [his] / [her] obligations.

**Undertakings to the court**

1. [Insert **(Record any undertakings given)**]

**IT IS ORDERED THAT:**

1. **Order for sale**
   1. The [the family home] / [*other property name*] shall be sold forthwith on the open market for sale and the following conditions will apply:
   2. the property shall be placed on the open market for sale immediately by [*name*] for [£[*amount*]] / [such price as may be agreed between the parties or in default of agreement determined by the court];
   3. the property shall be sold for [a price in excess of £[*amount*]] / [such price as may be agreed between the parties, having taken advice from the estate agents, [in excess of £[*amount*]]] or in default of agreement determined by the court;
   4. [both parties] / [the applicant] / [the respondent] shall have conduct of the sale;
   5. [the applicant’s] / [respondent’s] solicitors] / [*name of solicitors*] / [such solicitors as may be agreed between the parties or in default of agreement determined by the court] shall have the conduct of the conveyancing work relating to the sale;
   6. [*name of estate agents*] / [such estate agents as may be agreed between the parties of in default of agreement determined by the court] shall offer the property for sale; and
      1. the proceeds of sale shall be applied as follows:
      2. to discharge the mortgage [*mortgage name*];
      3. in payment of the solicitors; conveyancing costs and disbursements in connection with the sale;
      4. in payment of the estate agents’ charges;
      5. [in payment of any capital gains tax payable upon the sale];
      6. [in payment to the applicant of a lump sum of £[*amount*]] / [such sum as is required to discharge the respondent’s obligations under the order of [*date*]]; and
      7. in payment of the balance to the respondent.
2. **Occupation of the property pending sale**

The respondent has the right to [enter into and] occupy [the family home] / [*other property name*] until the property is sold [save that in the event that an exchange of contracts for the sale of the property has not been achieved by [*date*], the respondent shall vacate the property by [*date and time*] and the applicant has the right to [enter into and] occupy the property to the exclusion of the respondent].

1. **Payment of mortgage and outgoings on property**

The respondent shall discharge as and when each payment becomes due, be solely responsible for and in any event indemnify the applicant against:

* 1. all interest and capital repayments due in respect of the mortgage [*mortgage name*];
  2. all [reasonable] sums due in respect of [service charge], council tax, utilities (including but not limited to gas, electricity, water and telephone accounts), and buildings and contents insurance premiums in respect of [the family home] / [*other property name*]

until [the sale of the property] / [[his] / [her] vacation of the property]

1. **Costs**

The respondent shall pay the applicant’s costs of this application [summarily assessed at £[*amount*]] / [to be subject to detailed assessment in accordance with the Civil Procedure Rules 1998 Part 47 if not agreed] by [*date and time*].

Dated [*date*]

**(Where undertakings have been given)**

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

You [*applicant name*], and you [*respondent name*], may be sent to prison for contempt of court if you break the promises that have been given to the court

**Statements 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 for contempt of court

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[*applicant name*]

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

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

[*respondent name*]