

Guide to applying for a Property Order



About this guide

Read this guide to find out more about applying for a Property Order. If you want a Property Order you need to already have a Protection Order or be applying for a Protection Order at the same time. You will need to fill out a Property Order Application and Affidavit.

Take your time and speak to friends or family/whānau if you need support.

What is a Property Order?

A Property Order is a court order made by a Judge. A Property Order can be an Occupation Order, a Tenancy Order, an Ancillary Furniture Order, or a Furniture Order.

An Occupation Order or Tenancy Order says who can live in a specific house or flat.

If you want to live in a house or flat, under an Occupation Order or Tenancy Order, you can apply for an Ancillary Furniture Order so you can keep the furniture and appliances in the house or flat. If you want to move out, you can apply for a Furniture Order so you can then take all or some of the furniture and appliances to your new home.

It doesn't matter if it's you or the respondent who owns the furniture.

Who can apply for a Property Order?

You can apply for a Property Order only if you already have a Protection Order or if you apply for a Protection Order at the same time. You will need to show you need to stay in the house because you (or you child) need somewhere to live, or because staying in the house would enable you (or a child of your family) to continue childcare, education, training, or employment arrangements, or that it is in the best interests of your child or children to stay in house.

What happens if a Property Order is made?

If the violent person stays in the property when there is an Occupation Order or Tenancy Order, or stops you from taking the furniture, they can be arrested by the police and removed. They can also be charged with breaching the Protection Order. If they're convicted of this crime, they could be sent to prison for up to 3 years.

What do these words mean?

The Property Order form uses words and terms that may be new to you. See the Protection Order guide for other terms.

Term	Description
Dwellinghouse	A place to live, which can include a flat town house, a mobile home or caravan or other shelter.
Legal interest	Different ways to own property.
Vested tenancy	If a tenancy is 'vested' in a person, it means that person becomes the only tenant.



Do you need legal advice?

You can make this application yourself or you may want to get a lawyer to help you fill out this form.

The New Zealand Law Society has a directory of lawyers around New Zealand.

Visit: www.lawsociety.org.nz

Legal aid: If you can't afford a lawyer you may qualify for legal aid which will pay for a lawyer. You can find out more about applying for legal aid here: <https://www.justice.govt.nz/get-legal-aid>

Community Law Centres have lawyers who can support you, and this service is usually free. To find your closest Community Law Centre look in your phone book or online at www.communitylaw.org.nz



Do you have any questions about this form?

If you have questions about this form you can call the Ministry of Justice on freephone:

0800 268 787 (9am – 5pm, Monday – Friday)

Application for property orders



Section 115 or Section 121 or Section 127 or Section 133, Family Violence Act 2018

In the Family Court at *(Court location)*

FAM



Application for occupation order (or tenancy order)

I apply on notice without notice

for an **occupation order** granting me the right to personally occupy the dwellinghouse situated at

for a period of

I request the occupation order be made on the following terms and conditions:

I apply on notice without notice

for a **tenancy order** vesting in me the tenancy of the dwellinghouse situated at

COURT USE ONLY:
Date document is filed: (Court stamp)



Application for ancillary furniture order

I apply on notice without notice

for an ancillary furniture order granting me the possession and use of:

(a) all of the furniture, household appliances, and household effects in the dwellinghouse situated at

OR

(b) the following furniture, household appliances, and household effects in the dwellinghouse situated at

Specify the items. It is not necessary to specify every item as long as the items in respect of which the application is made are readily ascertainable.

for a period of

I request that the ancillary furniture order be made on the following terms and conditions:

Specify any terms and conditions sought.



Application for furniture order

I apply on notice without notice

for a furniture order granting me the possession and use of:

(a) all of the furniture, household appliances, and household effects in the dwellinghouse situated at

OR

(b) the following furniture, household appliances, and household effects in the dwellinghouse situated at

Specify the items. It is not necessary to specify every item as long as the items in respect of which the application is made are readily ascertainable.

for a period of

I request that the furniture order be made on the following terms and conditions:

Specify any terms and conditions sought.

Affidavit in support

I rely on the content of the affidavit dated filed in support of this application (or these applications).

Signature



Signed

Date

Guide to completing your Affidavit



What is an Affidavit?

An Affidavit is how you describe for the Judge why you believe you need the Property Order.

Everything you say must be true and correct and you should only include facts that are relevant to why you need a Property Order.

For more information about an Affidavit, see the Protection Order Application guide.

This is a legal document:

- Everything you say must be true and correct to the best of your knowledge and belief
- It should only contain details about your situation. Try to include specific names, dates, and places if you have them
- You need to initial the bottom of each page and sign the final page in front of a Deputy Registrar of the Court, a Lawyer or a Justice of the Peace
- With your signature, you'll be confirming that everything you have said is true.

Affidavit



In support of application for property order.

In the Family Court at *(Court location)*

FAM



Note:

The applicant's address may be omitted from the front page where the applicant has asked for this information to be kept confidential.



Applicant

Full name

Home Address

Occupation

Respondent

Full name

Home Address

Occupation

Associated Respondent

Full name

Home Address

Occupation

COURT USE ONLY:
Date document is filed: (Court stamp)

I, (Full name)

of, (Address)

(Write address unless you want to keep it confidential from the Respondent)

Occupation

swear/solemnly and sincerely affirm that:

My relationship to the Respondent is

- Spouse/partner Family/whānau member We have a close personal relationship
 We live in the same home Ex spouse/partner

Give details about your relationship, such as:

- Date and place of marriage or civil union
- Whether you're still together or separated
- If not a partner, their relationship to you
- How long you have known them for
- Whether you live in the same house
- How long you have been in a relationship with the person

Exhibits referred to on this page (by assigned letter e.g. "A")

Initials:

Facts in support of application for occupation order

1. I am applying for (or have been granted) a protection order against the respondent
2. I own (or have a legal interest in) (or The respondent owns (or has a legal interest in)) the dwellinghouse at:

State the nature of the legal interest if the property is not owned by either party

3. The making of the occupation order:
 - (a) is reasonably necessary for one or both of the following purposes:
 - (i) to meet my accommodation needs, my child's needs, or both,
 - (ii) to enable me or my child (or both) to continue existing childcare, education, training, or employment arrangements; or
 - (b) is in the best interests of a child of my family.

State reasons for belief. If seeking particular terms or conditions, indicate reasons for doing so

4. The following people have an interest in the dwellinghouse that would be affected by the making of the order.

List the names of the people and their addresses, and state the nature of their interests

Exhibits referred to on this page (by assigned letter e.g. "A")

Initials:

Facts in support of application for tenancy order

- 5. I am applying for (or have been granted) a protection order against the respondent
- 6. The respondent is the sole tenant (or a tenant holding jointly, or in common, with me) of the dwellinghouse at:

State the nature of the legal interest if the property is not owned by either party

- 7. The making of the tenancy order:
 - (a) is reasonably necessary for one or both of the following purposes:
 - (i) to meet my accommodation needs, my child's needs, or both,
 - (ii) to enable me or a child of my family (or both) to continue existing childcare, education, training, or employment arrangements; or
 - (b) is in the best interests of a child of my family.

State reasons for belief

- 8. The following people have an interest in the dwellinghouse that would be affected by the making of a tenancy order.

List the names of the people and their addresses, and state the nature of their interests

Exhibits referred to on this page (by assigned letter e.g. "A")

Initials:

Facts in support of application for ancillary furniture order

9. I am applying for an occupation order (or a tenancy order) (or have a current occupation order (or tenancy order) in respect of the dwellinghouse situated at:

10. The respondent and I have lived in the same dwellinghouse at the same time for:

State period during which you and the respondent lived in the same house at the same time.

and I am (or I will be) living in the dwellinghouse specified in paragraph 9.

If not currently living in the dwellinghouse, give sufficient information to indicate intention to return. If seeking particular terms or conditions, indicate the reasons for doing so.

11. The following people have an interest in the furniture, household appliances, and household effects that would be affected by the making of an ancillary order

List the names of the people and their addresses, and state the nature of their interests

Exhibits referred to on this page (by assigned letter e.g. "A")

Initials:

Facts in support of application for furniture order

12. I am applying for (or have been granted) a protection order against the respondent.

13. The respondent and I live in the same dwellinghouse at

or have lived in the same dwellinghouse at

14. I am not applying for (or did not apply for) an occupation order or a tenancy order in respect of that dwellinghouse.

15. A child (or Children) of my family is (or are) living (or has (or have)) lived in that dwellinghouse.

16. The furniture, household appliances, and household effects in respect of which I am seeking a furniture order are reasonably required to equip another dwellinghouse in which I am living (or will live) (or a child of my family lives (or will live) or both I and a child of my family are living (or will live).

State sufficient facts to indicate the reasons for these statements. If seeking particular terms of conditions, indicate the reasons for doing so

17. The following people have an interest in the furniture, household appliances, and household effects that would be affected by the making of a furniture order

List the names of the people and their addresses, and state the nature of their interests

Exhibits referred to on this page (by assigned letter e.g. "A")

Initials:

Facts in support of application for property without notice

18. The application for an occupation order (or tenancy order or an ancillary furniture order or a furniture order) is made without notice to the respondent because the delay that would be caused by proceeding on notice would or might expose me (or a child of my family) to family violence.

State sufficient facts to indicate the reason for this statement

Other facts in support of application

Set out sufficient information to inform the Court of any other facts relied on in support of each application

Signature

Signed

Sworn or Affirmed at *(place)*

on this *(date)*

D	D	M	M	Y	Y	Y	Y
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Before me

(Registrar/Deputy Registrar, or Justice of the Peace or a solicitor of the High Court of New Zealand)



Important:

You need to complete this page and sign in front of either a Registrar/Deputy Registrar, or Justice of the Peace or a solicitor of the High Court of New Zealand. That person is your witness. Once it's signed by the witness, you then hand the application, affidavit and any other documents in at your nearest Court.

Exhibits referred to on this page (by assigned letter e.g. "A")

Initials: