

Annex A

Stay pursuant to Arbitration Act 1996 section 9 and/or under the court's case management powers



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

No:

The Family Procedure Rules 2010 rules 3.2 and 3.3

The Marriage/Civil Partnership/Relationship/Family of XX and YY

After hearing [*name the advocate(s) who appeared*]

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 the Recitals below

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

The parties

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

[Where undertakings have been given]

Notice pursuant to PD 37A para 2.1

You XX, and you YY, 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

I understand the undertaking 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.

.....

XX

I understand the undertaking 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.

.....

YY

Definitions

2. IFLA is the Institute of Family Law Arbitrators.
3. Form ARB1 is the arbitration agreement signed by the parties of which a copy has been lodged with the court.
4. The arbitration is an arbitration which is to be conducted in accordance with the rules of the IFLA arbitration scheme.

Recitals

5. *(In the case of an order made without notice)*
 - (a) 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 *[set out]*
 - (b) The Judge read the following affidavits/witness statements *[set out]* and heard oral testimony from *[name]*.
6. *(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 *[set out]*.
7. The applicant/respondent has applied to this court for financial remedies.
8. The court must by rules 3.2 and 3.3 of the Family Procedure Rules 2010 at every stage in proceedings consider whether alternative dispute resolution is appropriate and, if so, whether to adjourn those proceedings so to enable alternative dispute resolution to take place; and has power pursuant to its general powers of management under rule 4.1 to stay the whole or any part of proceedings either generally or until a specified date or event.

...

Agreements

9. By their Form ARB1 the parties have agreed to refer to arbitration the issues described in it which include some or all of the financial remedies for which applications are pending in this court.
10. ...

Undertakings to the court

11. ...
12. ...

IT IS ORDERED (BY CONSENT) THAT:

13. The pending application(s) for financial remedies is/*are* stayed pending receipt of the award in the arbitration (or until the parties may reach agreement in respect of the arbitration issues).
14. Upon receipt of the award (or upon reaching agreement) either party may in a form agreed with the other seek an order of this court to give effect to the award (or their agreement).
15. [*or if the parties cannot reach agreement upon the form of an order to give effect to the award*] Failing agreement between the parties as to the form of an order to give effect to the award either party may apply for the other to show why an order should not be made in the terms of the draft proposed.
16. Any application under either of the preceding 2 paragraphs shall be lodged together with a copy of the award, Form(s) D81 and with a draft of the order which the court is requested to make.
17. [*Provision for the costs of the stay application*]

Dated



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

No:

The Arbitration Act 1996 section 42

The Marriage/Civil Partnership/Relationship/Family of XX and YY

After hearing [*name the advocate(s) who appeared*]

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 the recitals below

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

The parties

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

[Where undertakings have been given]

Notice pursuant to PD 37A para 2.1

You XX, and you YY, 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

I understand the undertaking 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.

.....

XX

I understand the undertaking 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.

.....

YY

Definitions

2. IFLA is the Institute of Family Law Arbitrators.
3. Form ARB1 is the arbitration agreement signed by the parties of which a copy has been lodged with the court.
4. The arbitration is an arbitration which is to be conducted in accordance with the rules of the IFLA arbitration scheme.
5. The arbitrator is *[name]*.
6. The arbitrator's order is a peremptory order made on *[date]* pursuant to section 41(5) of the Arbitration Act 1996 which required the respondent to comply with its terms [by *[date]*] or [without prescribing a date for compliance].

Recitals

7. *(In the case of an order made without notice)*
 - (a) 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 *[set out]*
 - (b) The Judge read the following affidavits/witness statements *[set out]* and heard oral testimony from *[name]*
8. *(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 *[set out]*
9. *(In the case of an application commenced elsewhere than in the Family Court)*

This application was transferred to this court from the *[specify]* Division/Court by order of *[name of judge]* on *[date]*.
10. The arbitration has commenced and is continuing.
11. The parties have by their Form ARB1 and their acceptance of the IFLA arbitration scheme rules agreed that the powers of the court under section 42 of the Arbitration Act 1996 (enforcement of peremptory orders of tribunal) are available, so that if one of them fails to comply with a peremptory order made

by the arbitrator then another party may apply to the court for an order requiring compliance.

12. The arbitrator's order is (so far as relevant to this application) in the following terms:

[set out in the words of the arbitrator's order]

13. This application is for an order under section 42 of the Arbitration Act 1996 for the enforcement of the arbitrator's order and is made:

[by the applicant.] (or)

[by the arbitrator, upon notice to the parties.]

14. This court is satisfied that:

- (a) the applicant has exhausted all available arbitral process in respect of the respondent's failure to comply with that/*those* provision(s) of the peremptory order; and
- (b) the respondent has failed to comply with that/*those* provision(s) of the peremptory order [within the time prescribed by the order] *or* [within a reasonable time, no time for compliance having been prescribed].

Agreements

15. ...

Undertakings to the court

16. ...

IT IS ORDERED (BY CONSENT):

17. The respondent shall comply with the peremptory order by no later than *[date]*.

[or]

18. *[Other orders]*

19. *[If applied for]* Permission to appeal against this decision is granted/*refused*.

20. *[Provision for costs]*

Dated



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

No:

The Arbitration Act 1996 section 43

The Marriage/Civil Partnership/Relationship/Family of XX and YY

After hearing [*name the advocate(s) who appeared*]

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 the recitals below

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

The parties

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

[*Where undertakings have been given*]

Notice pursuant to PD 37A para 2.1

You XX, and you YY, 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

I understand the undertaking 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.

.....
XX

I understand the undertaking 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.

.....
YY

Definitions

2. IFLA is the Institute of Family Law Arbitrators.
3. Form ARB1 is the arbitration agreement signed by the parties of which a copy has been lodged with the court.
4. The arbitration is an arbitration which is to be conducted in accordance with the rules of the IFLA arbitration scheme.
5. The arbitrator is *[name]*.
6. The witness/*witnesses* is/*are* *[name(s)]*

Recitals

7. *(In the case of an order made without notice)*
 - (a) 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 *[set out]*
 - (b) The Judge read the following affidavits/witness statements *[set out]* and heard oral testimony from *[name]*
8. *(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 *[set out]*
9. *(In the case of an application commenced elsewhere than in the Family Court)*

This application was transferred to this court from the *[specify]* Division/Court by order of *[name of judge]* on *[date]*.
10. The arbitration has commenced and is being conducted in England and Wales and the witness/*witnesses* are in the United Kingdom.
11. This application is for an order pursuant to section 43 of the Arbitration Act 1996 to secure the attendance before the arbitrator of the witness/*witnesses* in order:

[to give oral testimony] (*and/or*)

[to produce documents or other material evidence which the witness/*witnesses* can be compelled to produce in legal proceedings, namely [*specify*].]

12. This application is made:

[by the applicant with the permission of the tribunal.] (*or*)

[with the agreement of the other party/*parties* to the arbitration.]

Agreements

13. ...

Undertakings to the court

14. ...

IT IS ORDERED (BY CONSENT):

15. [*Insert the form of order or notice appropriate to secure the attendance of a witness in order to give oral testimony and/or to produce documents or other material evidence.*]

16. [*Other orders*]

17. [*Provision for costs*]

Dated

Annex B

Recitals for use where "omnibus" orders to reflect an arbitral award are sought for either Financial Remedy or Children Act Schedule 1 Final Orders

For the Financial Remedy Final Order Omnibus:

...

Arbitration award recital

19.

a. The documents lodged in relation to this application include the parties' arbitration agreement (Form ARB1), their Form(s) D81, a copy of the arbitrator's award, and a draft of the order which the court is requested to make.

b. By their Form ARB1 the parties agreed to refer to arbitration the issues described in it which include some or all of the financial remedies for which applications are pending in this court. The issues were referred to [insert arbitrator] under the IFLA scheme, who made an arbitral award on [insert date].

c. ***Either:***

[The parties have invited the court to make an order in agreed terms which reflects the arbitrator's award.]

or:

[There has been no agreement between the parties as to the form of an order to give effect to the arbitrator's award. The [applicant]/[respondent] has applied for the other party to show why an order should not be made in the terms of the draft proposed; and the court having considered the representations made by each party has directed that an order be made in the terms of this order.]

For the Children Act Schedule 1 Final Order Omnibus:

...

Arbitration award recital

18.

a. The documents lodged in relation to this application include the parties' arbitration agreement (Form ARB1), their Form(s) D81, a copy of the arbitrator's award, and a draft of the order which the court is requested to make.

b. By their Form ARB1 the parties agreed to refer to arbitration the issues described in it which encompass the application under Schedule 1 to the Children Act 1989 now pending in this court. The issues were referred to

[insert arbitrator] under the IFLA scheme, who made an arbitral award on [insert date].

c. *Either:*

[The parties have invited the court to make an order in agreed terms which reflects the arbitrator's award.]

or:

[There has been no agreement between the parties as to the form of an order to give effect to the arbitrator's award. The [applicant]/[respondent] has applied for the other party to show why an order should not be made in the terms of the draft proposed; and the court having considered the representations made by each party has directed that an order be made in the terms of this order.]