

# ENFORCEMENT OF UNDERTAKINGS

## **This Practice Direction supplements FPR Part 33**

### **Enforcement of undertaking to do or abstain from doing any act other than the payment of money**

- 1.1** Rule 33.1(2) provides that Part 50 of, and Schedules 1 and 2 to, the CPR (which contain the Rules of the Supreme Court (RSC) and County Court Rules (CCR) respectively) apply, as far as they are relevant and with necessary modification, to an application made in the High Court and a county court to enforce an order made in family proceedings.
- 1.2** Subject to the Debtors Act 1869 (which makes provision in relation to orders for the payment of money), RSC Order 45.5 and CCR Order 29.1 enable a judgment or order to be enforced by committal for contempt of court where
  - (a) a person who is required by a judgment or order to do an act has refused or neglected to do that act within the specified time; or
  - (b) a person disobeys a judgment or order requiring him to abstain from doing an act.
- 1.3** These Rules apply to undertakings as they apply to orders, with necessary modifications.
- 1.4** The form of an undertaking to do or abstain from doing any act must be endorsed with a notice setting out the consequences of disobedience, as follows:

You may be sent to prison for contempt of court if you break the promises that you have given to the court.

- 1.5** The person giving the undertaking must make a signed statement to the effect that he or she understands the terms of the undertaking being given and the consequences of failure to comply with it, as follows:
 

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 for contempt of court.
- 1.6** The statement need not be given before the court in person. It may be endorsed on the court copy of the undertaking or may be filed in a separate document such as a letter.

### **Enforcement of undertaking for the payment of money**

- 2.1** Any undertaking for the payment of money that has effect as if it was an order made under Part 2 of the Matrimonial Causes Act 1973 may be enforced as if it was an order and Part 33 applies accordingly.

- 2.2** The form of an undertaking for the payment of money that has effect as if it were an order under Part 2 of the Matrimonial Causes Act 1973 must be endorsed with a notice setting out the consequences of disobedience, as follows:

If you fail to pay any sum of money which you have promised the court that you will pay, a person entitled to enforce the undertaking may apply to the court for an order. You may be sent to prison if it is proved that you –

- (a) have, or have had since the date of your undertaking, the means to pay the sum; and
- (b) have refused or neglected, or are refusing or neglecting, to pay that sum’.

- 2.3** The person giving the undertaking must make a signed statement to the effect that he or she understands the terms of the undertaking being given and the consequences of failure to comply with it, as follows:

I understand the undertaking that I have given, and that if I break my promise to the court to pay any sum of money, I may be sent to prison.

- 2.4** The statement need not be given before the court in person. It may be endorsed on the court copy of the undertaking or may be filed in a separate document such as a letter.