



# Family Law Act 1996

## 1996 CHAPTER 27

### PART IV

#### FAMILY HOMES AND DOMESTIC VIOLENCE

##### *Dwelling-house subject to mortgage*

#### **56 Actions by mortgagees: service of notice on certain persons.**

- (1) This section applies if a mortgagee of land which consists, or substantially consists, of a dwelling-house brings an action for the enforcement of his security, and at the relevant time there is—
- (a) in the case of unregistered land, a land charge of Class F registered against the person who is the estate owner at the relevant time or any person who, where the estate owner is a trustee, preceded him as trustee during the subsistence of the mortgage; or
  - (b) in the case of registered land, a subsisting registration of—
    - (i) a notice under section 31(10);
    - (ii) a notice under section 2(8) of the <sup>M1</sup>Matrimonial Homes Act 1983; or
    - (iii) a notice or caution under section 2(7) of the <sup>M2</sup>Matrimonial Homes Act 1967.
- (2) If the person on whose behalf—
- (a) the land charge is registered, or
  - (b) the notice or caution is entered,
- is not a party to the action, the mortgagee must serve notice of the action on him.
- (3) If—
- (a) an official search has been made on behalf of the mortgagee which would disclose any land charge of Class F, notice or caution within subsection (1) (a) or (b),
  - (b) a certificate of the result of the search has been issued, and

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*Changes to legislation: Family Law Act 1996, Section 56 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (c) the action is commenced within the priority period,  
the relevant time is the date of the certificate.
- (4) In any other case the relevant time is the time when the action is commenced.
- (5) The priority period is, for both registered and unregistered land, the period for which, in accordance with section 11(5) and (6) of the <sup>M3</sup>Land Charges Act 1972, a certificate on an official search operates in favour of a purchaser.

**Marginal Citations**

**M1** 1983 c. 19.

**M2** 1967 c. 75.

**M3** 1972 c. 61.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 63(2)(k) inserted by [2021 c. 17 s. 52\(2\)](#)