



Matrimonial Homes (Family Protection) (Scotland) Act 1981

1981 CHAPTER 59

Occupancy rights in relation to dealings with third parties

7 Dispensation by court with spouse's consent to dealing.

- (1) The court may, on the application of an entitled spouse or any other person having an interest, make an order dispensing with the consent of a non-entitled spouse to a dealing which has taken place or a proposed dealing, if—
 - (a) such consent is unreasonably withheld;
 - (b) such consent cannot be given by reason of physical or mental disability;
 - (c) the non-entitled spouse cannot be found after reasonable steps have been taken to trace him or her; or
 - (d) the non-entitled spouse is a minor.
- (2) For the purposes of subsection (1)(a) above, a non-entitled spouse shall have unreasonably withheld consent to a dealing which has taken place or a proposed dealing, where it appears to the court—
 - (a) that the non-entitled spouse has led the entitled spouse to believe that he or she would consent to the dealing and that the non-entitled spouse would not be prejudiced by any change in the circumstances of the case since such apparent consent was given; or
 - (b) that the entitled spouse has, having taken all reasonable steps to do so, been unable to obtain an answer to a request for consent.
- (3) The court, in considering whether to make an order under subsection (1) above, shall have regard to all the circumstances of the case including the matters specified in paragraphs (a) to (e) of section 3(3) of this Act.
- (4) Where—
 - (a) an application is made for an order under this section; and
 - (b) an action is or has been raised by a non-entitled spouse to enforce occupancy rights,

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: Matrimonial Homes (Family Protection) (Scotland) Act 1981, Section 7 is up to date with all changes known to be in force on or before 14 July 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)

the action shall be sisted until the conclusion of the proceedings on the application.

(5) F1

Textual Amendments

F1 S. 7(5) repealed by Family Law (Scotland) Act 1985 (c. 37, SIF 49:3), ss. 28(2), 29(4), **Sch. 2**

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