

1982 No. 971 (S.129)

MATRIMONIAL HOMES AND PROPERTY

The Matrimonial Homes (Form of Consent) (Scotland)
Regulations 1982

Made - - - - - 13th July 1982
Coming into Operation 1st September 1982

In exercise of the powers conferred upon me by section 6(3)(a)(i), and by that section as applied by section 9(2), of the Matrimonial Homes (Family Protection) (Scotland) Act 1981(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1.—(1) These regulations may be cited as the Matrimonial Homes (Form of Consent) (Scotland) Regulations 1982 and shall come into operation on 1st September 1982.

(2) In these regulations—

“the Act” means the Matrimonial Homes (Family Protection) (Scotland) Act 1981.

and, in a case where section 9(1) of the Act applies, any reference in these regulations to the entitled spouse and to the non-entitled spouse shall be construed in accordance with section 9(2)(a) of the Act.

2. The consent of the non entitled spouse to any dealing of the entitled spouse relating to a matrimonial home shall be—

- (a) where the consent is given in a deed effecting the dealing, in or as nearly as may be in the form set out in Schedule 1 to these regulations;
or
- (b) where the consent is given in a separate document, in or as nearly as may be in the form set out in Schedule 2 to these regulations.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
13th July 1982.

SCHEDULE 1

CONSENT TO BE INSERTED IN THE DEED EFFECTING THE DEALING

(The following words should be inserted where appropriate in the deed. The consentor should sign as a party to the deed.)

. . . with the consent of A.B. (*designation*), the spouse of the said C.D., for the purposes of the Matrimonial Homes (Family Protection) (Scotland) Act 1981. . .
[To be attested]

SCHEDULE 2

CONSENT IN A SEPARATE DOCUMENT

I, A.B. (*designation*), spouse of C.D. (*designation*), hereby consent, for the purposes of the Matrimonial Homes (Family Protection) (Scotland) Act 1981, to the undernoted dealing of the said C.D. relating to (*here describe the matrimonial home or the part of it to which the dealer relates: see Note 1*).

Dealing referred to:—

(*Here describe the dealing: see Note 2.*)

[To be attested].

Note 1

The expression “matrimonial home” is defined in section 22 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as follows:—

“ “matrimonial home” means any house, caravan, houseboat or other structure which has been provided or has been made available by one or both of the spouses as, or has become, a family residence and includes any garden or other ground or building attached to, and usually occupied with, or otherwise required for the amenity or convenience of, the house, caravan, houseboat or other structure.”

Note 2

The expression “dealing” is defined in section 6(2) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as follows:—

“ “dealing” includes the grant of a heritable security and the creation of a trust but does not include a conveyance under section 80 of the Lands Clauses Consolidation (Scotland) Act 1845.”

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations prescribe the forms of consent to be used where a spouse who has occupancy rights in a matrimonial home by virtue of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 is consenting to a dealing of the other spouse relating to that home. These forms are also to be used where both spouses are entitled to occupy the matrimonial home and one spouse is consenting to a dealing of the other spouse relating to that home.

Schedule 1 provides the form where the consent is inserted in the document effecting the dealing, and Schedule 2 provides the form where the consent is in a separate document.

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