Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 27 *of* 1976

FAMILY HOME PROTECTION ACT 1976

REVISED

Updated to 22 June 2023

This Revised Act is an administrative consolidation of *Family Home Protection Act 1976*. It is prepared by the Law Reform Commission in accordance with its function under *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023* (15/2023), enacted 22 June 2023, and all statutory instruments up to and including *Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022 (Commencement) Order 2023* (S.I. No. 321 of 2023), made 21 June 2023, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 27 *of* 1976

FAMILY HOME PROTECTION ACT 1976

REVISED

Updated to 22 June 2023

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Family home.
3. Alienation of interest in family home.
4. Consent of spouse.
5. Conduct leading to loss of family home.
6. Payment of outgoings on family home.
7. Adjournment of proceedings by mortgagee or lessor for possession or sale of family home.
8. Modification of terms of mortgage or lease as to payment of capital sum.
9. Restriction on disposal of household chattels.
10. Jurisdiction.
11. Joinder of parties.
12. Registration of notice of existence of marriage.
13. Restriction of section 59 (2) of Registration of Title Act, 1964.
14. Creation of joint tenancy in family home: exemption from stamp duty and fees.
15. Offences.
16. Short title.

ACTS REFERRED TO

Statute of Limitations, 1957	1957, No. 6.
Conveyancing Act, 1882	1882, c. 39.
Married Women's Status Act, 1957	1957, No. 5.
Guardianship of Infants Act, 1964	1964, No. 7.
Family Law (Maintenance of Spouses and Children) Act, 1976	1976, No. 11.

Registration of Deeds Act, 1707	1707, c. 2.
Registration of Title Act, 1964	1964, No. 16.

Number 27 *of* 1976

FAMILY HOME PROTECTION ACT 1976

REVISED

Updated to 22 June 2023

AN ACT TO PROVIDE FOR THE PROTECTION OF THE FAMILY HOME AND FOR RELATED MATTERS. [12*th July*, 1976]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

Editorial Notes:

E1 Proceedings under Act included in definition of "family law proceedings" (1.01.2018) by *Mediation Act 2017* (27/2017), s. 2, S.I. No. 591 of 2017.

E2 Rights and incumbrances, for purposes of *Land and Conveyancing Law Reform Act 2009* (27/2009), s. 117, confirmed to include claims under Act (1.12.2009) by *Land and Conveyancing Law Reform Act 2009* (27/2009), s. 117(4)(a), S.I. No. 356 of 2009.

E3 Proceedings under Act are eligible for civil legal aid as provided (11.10.1996) by *Civil Legal Aid Act 1995* (32/1995), s. 28(9)(c)(i), S.I. No. 272 of 1996.

E4 Court may give directions to obtain a written report on any questions affecting the welfare of a party to the proceedings or any other person to whom the proceedings relate, including proceedings under this Act, as provided (1.08.1996) by *Family Law Act 1995* (26/1995), s. 47(1) and s. 47(6)(e), S.I. No. 46 of 1996.

E5 Right of creditor to send written communications to spouse of consumer for purposes of compliance with Act prescribed (13.05.1996) by *Consumer Credit Act 1995* (24/1995), s. 45(3)(a), S.I. No. 121 of 1996.

E6 Proceedings under *Judicial Separation and Family Law Reform Act 1989*, Part III included in definition of "family law proceedings" (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 30, commenced as per s. 46(2).

E7 Circuit Court to be known as the Circuit Family Court when exercising its jurisdiction to hear and determine family law proceedings as provided (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 31(1), commenced as per s. 46(2).

E8 Circuit Family Court to hear and determine proceedings instituted under Act at different places, times or days to ordinary sittings of Circuit Court as provided (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 32, commenced as per s. 46(2).

E9 Conduct of family proceedings in District Court, Circuit Family Court and High Court required to be informal (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), ss. 33 and 45, commenced as per s. 46(2).

E10 Surrender of dwelling deemed a conveyance for purposes of Act (26.07.1982) by *Housing (Private Rented Dwellings) Act 1982* (6/1982), s. 10(2), S.I. No. 216 of 1982.

Interpretation.

1.—(1) In this Act, except where the context otherwise requires—

"conduct" includes an act and a default or other omission;

"conveyance" includes a mortgage, lease, assent, transfer, disclaimer, release and any other disposition of property otherwise than by a will or a *donatio mortis causa* and also includes an enforceable agreement (whether conditional or unconditional) to make any such conveyance, and "convey" shall be construed accordingly;

"the court" means the court having jurisdiction under section 10;

"dependent child of the family", in relation to a spouse or spouses, means any child—

(*a*) of both spouses, or adopted by both spouses under the Adoption Acts, 1952 to 1974, or in relation to whom both spouses are *in loco parentis*, or

(*b*) of either spouse, or adopted by either spouse under the Adoption Acts, 1952 to 1974, or in relation to whom either spouse is *in loco parentis*, where the other spouse, being aware that he is not the parent of the child, has treated the child as a member of the family,

who is under the age of sixteen years, or, if he has attained that age—

(i) is receiving full-time education or instruction at any university, college, school or other educational establishment and is under the age of twenty-one years, or

(ii) is suffering from mental or physical disability to such extent that it is not reasonably possible for him to maintain himself fully;

"family home" has the meaning assigned by *section 2*;

"household chattels" has the meaning assigned by *section 9 (7)*;

"interest" means any estate, right, title or other interest, legal or equitable;

"mortgage" includes an equitable mortgage, a charge on registered land and a chattel mortgage, and cognate words shall be construed accordingly;

"rent" includes a conventional rent, a rentcharge within the meaning of section 2 (1) of the Statute of Limitations, 1957, and a terminable annuity payable in respect of a loan for the purchase of a family home.

(2) References in this Act to any enactment shall be construed as references to that enactment as amended or extended by any subsequent enactment, including this Act.

(3) (*a*) A reference in this Act to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended.

(*b*) A reference in this Act to a subsection is a reference to the subsection of the section in which the reference occurs unless it is indicated that reference to some other section is intended.

Family home.

2.—(1) In this Act "family home" means, primarily, a dwelling in which a married couple ordinarily reside. The expression comprises, in addition, a dwelling in which

a spouse whose protection is in issue ordinarily resides or, if that spouse has left the other spouse, ordinarily resided before so leaving.

F1**[**(2) In *subsection (1)*, 'dwelling' means any building or part of a building occupied as a separate dwelling and includes any garden or other land usually occupied with the dwelling, being land that is subsidiary and ancillary to it, is required for amenity or convenience and is not being used or developed primarily for commercial purposes, and includes a structure that is not permanently attached to the ground and a vehicle, or vessel, whether mobile or not, occupied as a separate dwelling.**]**

Annotations

Amendments:

F1 Substituted (1.08.1996) by *Familiy Law Act 1995* (26/1995), s. 54(1)(a), S.I. No. 46 of 1996, subject to transitional provision in subs. (2).

Alienation of interest in family home.

3.—(1) Where a spouse, without the prior consent in writing of the other spouse, purports to convey any interest in the family home to any person except the other spouse, then, subject to F2**[***subsections (2), (3) and (8)*] and *section 4*, the purported conveyance shall be void.

(2) *Subsection (1)* does not apply to a conveyance if it is made by a spouse in pursuance of an enforceable agreement made before the marriage of the spouses.

(3) No conveyance shall be void by reason only of *subsection (1)*—

(*a*) if it is made to a purchaser for full value,

(*b*) if it is made, by a person other than the spouse making the purported conveyance referred to in *subsection (1)*, to a purchaser for value, or

(*c*) if its validity depends on the validity of a conveyance in respect of which any of the conditions mentioned in *subsection (2)* or *paragraph (a)* or *(b)* is satisfied.

(4) If any question arises in any proceedings as to whether a conveyance is valid by reason of *subsection (2)* or *(3)*, the burden of proving that validity shall be on the person alleging it.

(5) In *subsection (3)*, "full value" means such value as amounts or approximates to the value of that for which it is given.

(6) In this section, "purchaser" means a grantee, lessee, assignee, mortgagee, chargeant or other person who in good faith acquires an estate or interest in property.

(7) For the purposes of this section, section 3 of the Conveyancing Act, 1882, shall be read as if the words "as such" wherever they appear in paragraph (ii) of subsection (1) of that section were omitted.

F3**[**(8) (*a*) (i) Proceedings shall not be instituted to have a conveyance declared void by reason only of *subsection (1)* after the expiration of 6 years from the date of the conveyance.

(ii) *Subparagraph (i)* does not apply to any such proceedings instituted by a spouse who has been in actual occupation of the land concerned from immediately before the expiration of 6 years from the date of the conveyance concerned until the institution of the proceedings.

(iii) *Subparagraph (i)* is without prejudice to any right of the other spouse referred to in *subsection (1)* to seek redress for a contravention of that subsection otherwise than by proceedings referred to in that subparagraph.

(*b*) A conveyance shall be deemed not to be and never to have been void by reason of *subsection (1)* unless—

(i) it has been declared void by a court by reason of *subsection (1)* in proceedings instituted—

(I) before the passing of the Family Law Act, 1995, or

(II) on or after such passing and complying with *paragraph (a)*,

or

(ii) subject to the rights of any other person concerned, it is void by reason of *subsection (1)* and the parties to the conveyance or their successors in title so state in writing before the expiration of 6 years from the date of the conveyance.

(*c*) A copy of a statement made for the purpose of *subparagraph (ii)* of *paragraph (b)* and certified by, or by the successor or successors in title of, the party or parties concerned ('the person or persons') to be a true copy shall, before the expiration of the period referred to in that subparagraph, as appropriate, be lodged by the person or persons in the Land Registry for registration pursuant to section 69 (1) of the Registration of Title Act, 1964, as if statements so made had been prescribed under paragraph (*s*) of the said section 69 (1) or be registered by them in the Registry of Deeds.

(*d*) Rules of court shall provide that a person who institutes proceedings to have a conveyance declared void by reason of *subsection (1)* shall, as soon as may be, cause relevant particulars of the proceedings to be entered as a *lis pendens* under and in accordance with the Judgments (Ireland) Act, 1844.

(9) If, whether before or after the passing of the Family Law Act, 1995, a spouse gives a general consent in writing to any future conveyance of any interest in a dwelling that is or was the family home of that spouse and the deed for any such conveyance is executed after the date of that consent, the consent shall be deemed, for the purposes of *subsection (1)*, to be a prior consent in writing of the spouse to that conveyance.**]**

Annotations

Amendments:

F2 Substituted (1.08.1996) by *Family Law Act 1995* (26/1995), s. 54(1)(b)(i), S.I. No. 46 of 1996, subject to transitional provison in subs. (2).

F3 Inserted (1.08.1996) by *Family Law Act 1995* (26/1995), s. 54(1)(b)(ii), S.I. No. 46 of 1996, subject to transitional provison in subs. (2).

Editorial Notes:

E11 Charging orders made under *Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022*, s. 34 or mortgage arising under such orders confirmed not conveyances for the purposes of section as provided (22.06.2023) by *Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022* (28/2022), s. 34(6), S.I. No. 320 of 2023.

E12 Prospective affecting provisions: charging orders made under *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 86(1), 98(17) and 99(3), and charges arising under such orders confirmed not conveyances for purposes of section by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 98(15) and 99(10), not commenced as of date of revision.

E13 Affordablce dwelling purchase arrangement confirmed not a conveyance (3.09.2021) by *Affordable Housing Act 2021* (25/2021), s. 12(11), S.I. No. 450 of 2021.

E14 Charging orders made under *Nursing Home Support Scheme Act 2009*, s. 14B(1) or mortgage arising under such orders confirmed not conveyances for the purposes of section as provided by *Nursing Home Support Scheme Act 2009* (41/2009), s. 14B(8), as inserted (20.10.2021) by *Nursing Homes Support Scheme (Amendment) Act 2021* (27/2021), s. 4, commenced as per s. 33(2).

E15 Charging orders made under *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 86(1), 98(6) and 99(3), and charges arising under such orders, confirmed not conveyances for purposes of section (18.06.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 88(7), S.I. No. 206 of 2018.

E16 Charging orders made under *Housing (Miscellaneous Provisions) Act 2014* (21/2014), s. 26(1), and charges arising under such orders confirmed not conveyances for purposes of section (1.01.2016) by *Housing (Miscellaneous Provisions) Act 2014* (21/2014), s. 26(12), S.I. No. 482 of 2015.

E17 Charging orders made under *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 46(1) and 74(1), and charges arising under such orders confirmed not conveyances for purposes of section (1.01.2010 and 1.01.2012) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), ss. 46(13) and 74(13), S.I. Nos. 540 of 2009 and 680 of 2011.

E18 Charging orders made under *Nursing Homes Support Scheme Act 2009* (15/2009), s. 17(2), and charges arising under such orders confirmed not conveyances for purposes of section (27.10.2009) by *Nursing Homes Support Scheme Act 2009* (15/2009), s. 17(9), S.I. No. 423 of 2009.

E19 Form of application under subs. (8)(c) prescribed (1.05.2008) by *Registration of Deeds Rules 2008* (S.I. No. 52 of 2008), rule 17 and Form 8, in effect as per rule 1.

E20 Orders under *Judicial Separation and Family Law Reform Act 1989* (6/1989) vesting property in one spouse to be generally accompanied by an order restricting application of section (1.08.1996) in accordance with *Family Law Act 1995* (26/1995), s. 54(3), S.I. No. 46 of 1996.

E21 Spousal consent for purposes of subs. (1) confirmed not invalid by reason only of minority of spouse (23.06.1981) by *Family Law Act 1981* (22/1981), s. 10, commenced on enactment.

E22 Previous affecting provision: charging orders made under *Housing (Miscellaneous Provisions) Act 2002* (9/2002), s. 9(3A)(a) and charges arising under such orders confirmed not conveyances for purposes of section by *Housing (Miscellaneous Provisions) Act 2002* (9/2002), s. 9(3A)(k), as inserted (12.12.2004) by *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 1, commenced on enactment. S. 9 repealed (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 7 and sch. 1 item 5, S.I. No. 350 of 2018, subject to saver in s. 96(7).

E23 Previous affecting provision: charging orders made under *Planning and Development Act 2000* (30/2000), s. 99(3A)(a) and charges arising under such orders confirmed not conveyances for purposes of section by *Planning and Development Act 2000* (30/2000), s. 99(3A)(k), as inserted (12.12.2004) by *Housing (Miscellaneous Provisions) Act 2004* (43/2004), s. 2, commenced on enactment. S. 99 repealed (12.09.2018) by *Housing (Miscellaneous Provisions) Act 2009* (22/2009), s. 7 and sch. 1 item 4, S.I. No. 350 of 2018, subject to saver in s. 96(6).

Consent of spouse.

4.—(1) Where the spouse whose consent is required under *section 3 (1)* omits or refuses to consent, the court may, subject to the provisions of this section, dispense with the consent.

(2) The court shall not dispense with the consent of a spouse unless the court considers that it is unreasonable for the spouse to withhold consent, taking into account all the circumstances, including—

(*a*) the respective needs and resources of the spouses and of the dependent children (if any) of the family, and

(*b*) in a case where the spouse whose consent is required is offered alternative accommodation, the suitability of that accommodation having regard to the respective degrees of security of tenure in the family home and in the alternative accommodation.

(3) Where the spouse whose consent is required under *section 3 (1)* has deserted and continues to desert the other spouse, the court shall dispense with the consent. For this purpose, desertion includes conduct on the part of the former spouse that results in the other spouse, with just cause, leaving and living separately and apart from him.

(4) Where the spouse whose consent is required under *section 3 (1)* is incapable of consenting by reason of unsoundness of mind or other mental disability or has not after reasonable inquiries been found, the court may give the consent on behalf of that spouse, if it appears to the court to be reasonable to do so.

Annotations

Editorial Notes:

E24 Power to make ancillary order under section on granting of decree of judicial separation prescribed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 10(1)(c), S.I. No. 46 of 1996.

E25 Previous affecting provision: power to make ancillary order under section on granting of decree of judicial separation prescribed (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 16(d), commenced as per s. 46(2); repealed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 3(1) and sch., S.I. No. 46 of 1996, subject to transitional provision in subs. (2).

Conduct leading to loss of family home.

5.—(1) Where it appears to the court, on the application of a spouse, that the other spouse is engaging in such conduct as may lead to the loss of any interest in the family home or may render it unsuitable for habitation as a family home with the intention of depriving the applicant spouse or a dependent child of the family of his residence in the family home, the court may make such order as it considers proper, directed to the other spouse or to any other person, for the protection of the family home in the interest of the applicant spouse or such child.

(2) Where it appears to the court, on the application of a spouse, that the other spouse has deprived the applicant spouse or a dependent child of the family of his residence in the family home by conduct that resulted in the loss of any interest therein or rendered it unsuitable for habitation as a family home, the court may order the other spouse or any other person to pay to the applicant spouse such amount as the court considers proper to compensate the applicant spouse and any such child for their loss or make such other order directed to the other spouse or to any other person as may appear to the court to be just and equitable.

Annotations

Editorial Notes:

E26 Power to make order under section in proceedings under *Domestic Violence Act 2018* prescribed (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 15(2)(c), S.I. No. 532 of 2018.

E27 Power to make ancillary order under section on granting of decree of divorce prescribed (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(c), commenced as per s. 1(2).

E28 Power to make preliminary order under section where application for decree of divorce has been made prescribed (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 11(c), commenced as per s. 1(2).

E29 Power to make ancillary order under section on granting of decree of judicial separation prescribed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 10(1)(c), S.I. No. 46 of 1996.

E30 Power to make preliminary order under section where application for judicial separation has been made prescribed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 6(c), S.I. No. 46 of 1996.

E31 Power to make order under section in conjunction with orders under *Domestic Violence Act 1996* (1/1996) prescribed (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 9(1) and (2)(c), commenced as per s. 25(1).

E32 Previous affecting provision: power to make ancillary order under section on granting of decree of judicial separation prescribed (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 16(d), commenced as per s. 46(2); repealed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 3(1) and sch., S.I. No. 46 of 1996, subject to transitional provision in subs. (2).

E33 Previous affecting provision: power to make preliminary order under section where application for judicial separation has been made prescribed (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 11(c), commenced as per s. 46(2); repealed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 3(1) and sch., S.I. No. 46 of 1996, subject to transitional provision in subs. (2).

Payment of outgoings on family home.

6.—(1) Any payment or tender made or any other thing done by one spouse in or towards satisfaction of any liability of the other spouse in respect of rent, rates, mortgage payments or other outgoings affecting the family home shall be as good as if made or done by the other spouse, and shall be treated by the person to whom such payment is made or such thing is done as though it were made or done by the other spouse.

(2) Nothing in *subsection (1)* shall affect any claim by the first-mentioned spouse against the other to an interest in the family home by virtue of such payment or thing made or done by the first-mentioned spouse.

Adjournment of proceedings by mortgagee or lessor for possession or sale of family home.

7.—(1) Where a mortgagee or lessor of the family home brings an action against a spouse in which he claims possession or sale of the home by virtue of the mortgage or lease in relation to the non-payment by that spouse of sums due thereunder, and it appears to the court—

(*a*) that the other spouse is capable of paying to the mortgagee or lessor the arrears (other than arrears of principal or interest or rent that do not constitute part of the periodical payments due under the mortgage or lease) of money due under the mortgage or lease within a reasonable time, and future periodical payments falling due under the mortgage or lease, and that the other spouse desires to pay such arrears and periodical payments; and

(*b*) that it would in all the circumstances, having regard to the terms of the mortgage or lease, the interests of the mortgagee or lessor and the respective interests of the spouses, be just and equitable to do so,

the court may adjourn the proceedings for such period and on such terms as appear to the court to be just and equitable.

(2) In considering whether to adjourn the proceedings under this section and, if so, for what period and on what terms they should be adjourned, the court shall have regard in particular to whether the spouse of the mortgagor or lessee has been informed (by or on behalf of the mortgagee or lessor or otherwise) of the non-payment of the sums in question or of any of them.

Annotations

Editorial Notes:

E34 Power to make ancillary order under section on granting of decree of divorce prescribed (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(c), commenced as per s. 1(2).

E35 Power to make ancillary order under section on granting of decree of judicial separation prescribed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 10(1)(c), S.I. No. 46 of 1996.

Modification of terms of mortgage or lease as to payment of capital sum.

8.—(1) Where, on an application by a spouse, after proceedings have been adjourned under *section 7*, it appears to the court that—

(*a*) all arrears (other than arrears of principal or interest or rent that do not constitute part of the periodical payments due under the mortgage or lease) of money due under the mortgage or lease, and

(*b*) all the periodical payments due to date under the mortgage or lease,

have been paid off and that the periodical payments subsequently falling due will continue to be paid, the court may by order declare accordingly.

(2) If the court makes an order under *subsection (1)*, any term in a mortgage or lease whereby the default in payment that gave rise to the proceedings under *section 7* has, at any time before or after the initial hearing of such proceedings, resulted or would have resulted in the capital sum advanced thereunder (or part of such sum or interest thereon) or any sum other than the periodical payments, as the case may be, becoming due, shall be of no effect for the purpose of such proceedings or any subsequent proceedings in respect of the sum so becoming due.

Restriction on disposal of household chattels.

9.—(1) Where it appears to the court, on the application of a spouse, that there are reasonable grounds for believing that the other spouse intends to sell, lease, pledge, charge or otherwise dispose of or to remove such a number or proportion of the household chattels in a family home as would be likely to make it difficult for the applicant spouse or a dependent child of the family to reside in the family home without undue hardship, the court may by order prohibit, on such terms as it may see fit, the other spouse from making such intended disposition or removal.

(2) Where matrimonial proceedings have been instituted by either spouse, neither spouse shall sell, lease, pledge, charge or otherwise dispose of or remove any of the household chattels in the family home until the proceedings have been finally determined, unless—

(*a*) the other spouse has consented to such sale, lease, pledge, charge or other disposition or removal, or

(*b*) the court before which the proceedings have been instituted, on application to it by the spouse who desires to make such disposition or removal, permits that spouse to do so, which permission may be granted on such terms as the court may see fit.

(3) In *subsection (2)* "matrimonial proceedings" includes proceedings under section 12 of the Married Women's Status Act, 1957, under the Guardianship of Infants Act, 1964, or under section 21 F4**[**...**]** of the Family Law (Maintenance of Spouses and Children) Act, 1976.

(4) A spouse who contravenes the provisions of *subsection (2)* shall, without prejudice to any other liability, civil or criminal, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding six months or to both.

(5) Where it appears to the court, on application to it by either spouse, that the other spouse—

(*a*) has contravened an order under *subsection (1)* or the provisions of *subsection (2)*, or

(*b*) has sold, leased, pledged, charged or otherwise disposed of or removed such a number or proportion of the household chattels in the family home as has made or is likely to make it difficult for the applicant spouse or a dependent child of the family to reside in the family home without undue hardship,

the court may order that other spouse to provide household chattels for the applicant spouse, or a sum of money in lieu thereof, so as to place the applicant spouse or the dependent child of the family as nearly as possible in the position that prevailed before such contravention, disposition or removal.

(6) Where a third person, before a sale, lease, pledge, charge or other disposition of any household chattel to him by a spouse, is informed in writing by the other spouse that he intends to take proceedings in respect of such disposition or intended disposition, the court in proceedings under this section may make such order, directed to the former spouse or the third person, in respect of such chattel as appears to it to be proper in the circumstances.

(7) For the purposes of this section "household chattels" means furniture, bedding, linen, china, earthenware, glass, books and other chattels of ordinary household use or ornament and also consumable stores, garden effects and domestic animals, but does not include any chattels used by either spouse for business or professional purposes or money or security for money.

Annotations

Amendments:

F4 Deleted (23.07.1981) by *Family Law (Protection of Spouses and Children) Act 1981* (21/1981), s. 17(1), commenced as per s. 18.

Modifications (not altering text):

C1 Application of subs. (2) extended (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 13, S.I. No. 532 of 2018.

Application of section 9(2) of Family Home Protection Act 1976

13. (1) Where an application for a barring order or a safety order is made against the spouse of the applicant, subsection (2) of section 9 of the Act of 1976 shall apply—

(*a*) between the making of the application for the order and the determination of that application, and

(*b*) if that order is made, while that order is in force,

as it applies between the institution and final determination of matrimonial proceedings to which that section relates.

(2) The court which is empowered under subsection (2)(b) of section 9 of the Act of 1976 to grant permission for a disposition or removal of household chattels within the meaning of that section is, notwithstanding anything in section 10 of that Act, the court before which the proceedings, including proceedings for a barring order or a safety order, have been instituted.

Editorial Notes:

E36 Power to make order under section in proceedings under *Domestic Violence Act 2018* prescribed (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 15(2)(c), S.I. No. 532 of 2018.

E37 Power to make ancillary order under section on granting of decree of divorce prescribed (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 15(1)(c), commenced as per s. 1(2).

E38 Power to make preliminary order under section where application for decree of divorce has been made prescribed (27.02.1997) by *Family Law (Divorce) Act 1996* (33/1996), s. 11(c), commenced as per s. 1(2).

E39 Power to make ancillary order under section on granting of decree of judicial separation prescribed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 10(1)(c), S.I. No. 46 of 1996.

E40 Power to make preliminary order under section where application for judicial separation has been made prescribed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 6(c), S.I. No. 46 of 1996.

E41 Application of subs. (2) extended to apply between the making of an application for a barring order and its determination (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 8, commenced as per s. 25(1).

E42 Spousal consent for purposes of subs. (2) confirmed not invalid by reason only of minority of spouse (23.06.1981) by *Family Law Act 1981* (22/1981), s. 10, commenced on enactment.

E43 Previous affecting provision: power to make order under section in conjunction with orders under *Domestic Violence Act 1996* (1/1996) prescribed (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 9(1) and (2)(c), commenced as per s. 25(1); repealed (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 3(b), S.I. No. 532 of 2018.

E44 Previous affecting provision: power to make ancillary order under section on granting of decree of judicial separation prescribed (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 16(d), commenced as per s. 46(2); repealed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 3(1) and sch., S.I. No. 46 of 1996, subject to transitional provision in subs. (2).

E45 Previous affecting provision: power to make preliminary order under section where application for judicial separation has been made prescribed (19.10.1989) by *Judicial Separation and Family Law Reform Act 1989* (6/1989), s. 11(d), commenced as per s. 46(2); repealed (1.08.1996) by *Family Law Act 1995* (26/1995), s. 3(1) and sch., S.I. No. 46 of 1996, subject to transitional provision in subs. (2).

E46 Previous affecting provision: application of subs. (2) extended to apply between the making of an application for a barring order and its determination (23.07.1981) by *Family Law (Protection of Spouses and Children) Act 1981* (21/1981), s. 9, commenced as per s. 18; repealed (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 23(1), commenced as per s. 25(1), subject to transitional provisions in s. 23(2)-(4).

Jurisdiction.

10.—(1) The jurisdiction conferred on a court by this Act may be exercised by the High Court.

(2) Subject to *subsections (3)* and *(4)*, the Circuit Court shall concurrently with the High Court have all the jurisdiction of the High Court to hear and determine proceedings under this Act.

(3) Where either spouse is a person of unsound mind and there is a committee of the spouse's estate, the jurisdiction conferred by this Act may, subject to *subsection (4)*, be exercised by the court that has appointed the committee.

F5**[**(4) Where the F6**[**market value**]** of the land to which the proceedings relate exceeds F6**[**€3,000,000**]** and the proceedings are brought in the Circuit Court, that Court shall, if a defendant so requires before the hearing thereof, transfer the proceedings to the High Court, but any order made or act done in the course of such proceedings before such transfer shall be valid unless discharged or varied by order of the High Court.**]**

F7**[**(5) (*a*) F8**[**...**]**

(*b*) The District Court shall, subject to *subsection (3)*, have jurisdiction to deal with a question arising under *section 9* where the value of the household chattels intended to be disposed of or removed or actually disposed of or removed, as the case may be, does not exceed F9**[**€15,000**]** F8**[**...**]**.

(*c*) F8**[**...**]]**

(6) Proceedings under or referred to in this Act in which each spouse is a party (whether by joinder or otherwise) shall be conducted in a summary manner and shall be heard otherwise than in public.

(7) Proceedings in the High Court and in the Circuit Court under or referred to in this Act in which each spouse is a party (whether by joinder or otherwise) shall be heard in chambers.

F10**[**(8) In this section "market value" means, in relation to land, the price that would have been obtained in respect of the unencumbranced fee simple were the land to have been sold on the open market, in the year immediately preceding the bringing of the proceedings concerned, in such manner and subject to such conditions as might reasonably be calculated to have resulted in the vendor obtaining the best price for the land.**]**

Annotations

Amendments:

F5 Substituted (12.05.1982) by *Courts Act 1981* (11/1981), s. 13, commenced as per s. 33(3).

F6 Substituted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 48(a)(i), (ii), S.I. No. 2 of 2017.

F7 Substituted (1.08.1996) by *Family Law Act 1995* (26/1995), s. 54(1)(c), S.I. No. 46 of 1996.

F8 Deleted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 48(b), S.I. No. 2 of 2017.

F9 Substituted (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 15(a) and sch. part 2 item 3, S.I. No. 566 of 2013.

F10 Inserted (11.01.2017) by *Civil Liability and Courts Act 2004* (31/2004), s. 48(c), S.I. No. 2 of 2017.

Modifications (not altering text):

C2 Application of section affected (31.03.2005) by *Civil Liability and Courts Act 2004* (31/2004), ss. 39 and 40, S.I. No. 544 of 2004, as amended (1.08.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 31, S.I. No. 274 of 2008; and as amended (11.01.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), ss. 2(2), 4 and 5, S.I. Nos. 5 of 2014 and 334 of 2014.

Definitions.

39.—In this Chapter— ...

["relevant enactment" means any of the following provisions: ...

(d) *section 10* of the Act of 1976;

...**]**

Proceedings heard otherwise than in public.

40.— ...

(3) Nothing contained in a relevant enactment shall operate to prohibit—

(a) the preparation by a barrister at law or a solicitor or a person falling within any other class of persons specified in regulations made by the Minister and publication of a report of proceedings to which the relevant enactment relates, or

(b) the publication of the decision of the court in such proceedings,

in accordance with rules of court, provided that the report or decision does not contain any information which would enable the parties to the proceedings or any child to which the proceedings relate to be identified and, accordingly, unless in the special circumstances of the matter the court, for reasons which shall be specified in the direction, otherwise directs, a person referred to in paragraph (a) may, for the purposes of preparing **[**such a report—

(i) attend the proceedings, and

(ii) have access to any relevant documents,

subject to any directions the court may give in that behalf.**]**

[(3A) (a) Subject to *paragraph (b)*, nothing contained in a relevant enactment shall operate to prohibit bona fide representatives of the Press from attending proceedings to which the relevant enactment relates.

(b) Subject to *paragraphs (c)* and *(d)*, where, in proceedings under a relevant enactment, a court is satisfied that it is necessary to do so—

(i) in order to preserve the anonymity of a party to the proceedings or any child to whom the proceedings relate,

(ii) by reason of the nature or circumstances of the case, or

(iii) as it is otherwise necessary in the interests of justice,

the court may, on its own motion, or on application to it by a party to the proceedings or by a person on behalf of a child to whom the proceedings relate, by order—

(I) exclude, or otherwise restrict the attendance of, bona fide representatives of the Press from the court during the hearing or particular parts of it, or

(II) prohibit or restrict the publication or broadcasting of any evidence given or referred to during the proceedings or any part of such evidence,

and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.

(c) In determining whether or not to make an order under *paragraph (b)*, a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of—

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

(v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;

(vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings;

(vii) whether information given or likely to be given in evidence is commercially sensitive information; and

(viii) whether information of the type referred to in *subparagraphs (iii), (vi) and (vii)* when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.

(d) In considering the views of a child referred to in *clause (II)* of *paragraph (c)(ii)*, a court shall take account of the age and level of maturity of the child concerned.

(e) Where evidence in proceedings to which a relevant enactment relates concerns a matter referred to in *subparagraph (vi)* of *paragraph (c)*, an application under *paragraph (b)* may be made by or on behalf of the Director of Public Prosecutions.

(f) In this subsection—

'commercially sensitive information' means—

(i) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or

(ii) information the disclosure of which could prejudice the conduct or outcome of contractual or other negotiations of the person to whom it relates;

"party to the proceedings" includes a witness in the proceedings;

"sensitive personal information" means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—

(i) information relating to the medical, psychiatric or psychological history of the person,

(ii) information relating to the tax affairs of the person,

(iii) information relating to the sexual conduct or sexual orientation of the person.**]**

(4) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from supplying copies of, or extracts from, orders made in the proceedings to such persons and in accordance with such conditions (if any) as may be prescribed by order of the Minister.

(5) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from being accompanied, in such proceedings, in court by another person subject to the approval of the court and any directions it may give in that behalf.

(6) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the production of a document prepared for the purposes or in contemplation of such proceedings or given in evidence in such proceedings, to—

(a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(7) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the giving of information or evidence given in such proceedings to—

(a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(8) A court hearing proceedings under a relevant enactment shall, on its own motion or on the application of one of the parties to the proceedings, have discretion to order disclosure of documents, information or evidence connected with or arising in the course of the proceedings to third parties if such disclosure is required to protect the legitimate interests of a party or other person affected by the proceedings.

(9) A hearing, inquiry or investigation referred to in *subsection (6)* or *(7)* shall, in so far as it relates to a document referred to in *subsection (6)* or information or evidence referred to in *subsection (7)*, be conducted otherwise than in public and no such document, information or evidence shall be published.

(10) This section shall apply to proceedings brought, and decisions of a court made, whether before or after the commencement of this section.

[(11) In *subsection (3)*, 'relevant documents', in relation to any proceedings referred to in that subsection—

(a) subject to *paragraph (b)*, means—

(i) the petition, summons or other originating document in the proceedings,

(ii) pleadings and other documents (including the terms of settlement, if any) produced to or lodged with the court, or included in the book of pleadings, in the course of the proceedings, and

(iii) any order made by the court in the proceedings,

(b) does not include any document the contents of which are expressed to be without prejudice or in terms having a like effect.**]**

Editorial Notes:

E47 Previous affecting provision: subs. 10(5)(b) amended by *Courts and Court Officers Act 2002* (15/2002), s. 14 and sch. 2 part 2, not commenced; amending provision repealed (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 2(1), S.I. No. 566 of 2013.

E48 Previous affecting provision: application of section restricted (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 8(2), commenced as per s. 25(1); repealed (1.01.2019) by *Domestic Violence Act 2018* (6/2018), s. 3(b), S.I. No. 532 of 2018.

E49 Previous affecting provision: subs. (5) amended (15.08.1991) by *Courts Act 1991* (20/1991), s. 8, commenced as per s. 23(3); substituted as per F-note above.

E50 Previous affecting provision: subs. (5) amended (12.05.1982) by *Courts Act 1981* (11/1981), s. 13(b), commenced as per s. 33(3); superseded as per E-note above.

E51 Previous affecting provision: application of section restricted (23.07.1981) by *Family Law (Protection of Spouses and Children) Act 1981* (21/1981), s. 9(2), commenced as per s. 18; repealed (27.03.1996) by *Domestic Violence Act 1996* (1/1996), s. 23(1), commenced as per s. 25(1), subject to transitional provisions in subss. (2)-(4).

Joinder of parties.

11.—In any proceedings under or referred to in this Act each of the spouses as well as any third person who has or may have an interest in the proceedings may be joined—

(*a*) by service upon him of a third-party notice by an existing party to the proceedings, or

(*b*) by direction of the court.

Registration of notice of existence of marriage.

12.—(1) A spouse may register in the Registry of Deeds pursuant to the Registration of Deeds Act, 1707 (in the case of unregistered property) or under the Registration of Title Act, 1964 (in the case of registered land) a notice stating that he is married to any person, being a person having an interest in such property or land.

(2) The fact that notice of a marriage has not been registered under *subsection (1)* shall not give rise to any inference as to the non-existence of a marriage.

(3) No stamp duty, Registry of Deeds fee or land registration fee shall be payable in respect of any such notice.

Annotations

Editorial Notes:

E52 Form of application under section prescribed (1.05.2008) by *Registration of Deeds Rules 2008* (S.I. No. 52 of 2008), rule 16 and Form 5, in effect as per rule 1.

Restriction of section 59(2) of Registration of Title Act, 1964.

13.—Section 59 (2) of the Registration of Title Act, 1964 (which refers to noting upon the register provisions of any enactment restricting dealings in land) shall not apply to the provisions of this Act.

Creation of joint tenancy in family home: exemption from stamp duty and fees.

14.—No F11**[**...**]** land registration fee, Registry of Deeds fee or court fee shall be payable on any transaction creating a joint tenancy between spouses in respect of a family home where the home was immediately prior to such transaction owned by either spouse or by both spouses otherwise than as joint tenants.

Annotations

Amendments:

F11 Deleted (27.03.1998) by *Finance Act 1998* (3/1998), s. 125 and sch. 8, commenced on enactment.

Offences.

15.—Where any person having an interest in any premises, on being required in writing by or on behalf of any other person proposing to acquire that interest to give any information necessary to establish if the conveyance of that interest requires a consent under *section 3 (1)*, knowingly gives information which is false or misleading in any material particular, he shall be guilty of an offence and shall be liable—

(*a*) on summary conviction, to a fine not exceeding £200 or to imprisonment for a term not exceeding twelve months or to both, or

(*b*) on conviction on indictment, to imprisonment for a term not exceeding five years,

without prejudice to any other liability, civil or criminal.

Short title.

16.—This Act may be cited as the *Family Home Protection Act, 1976*.

Number 27 *of* 1976

FAMILY HOME PROTECTION ACT 1976

REVISED

Updated to 22 June 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022* (28/2022)
- *Affordable Housing Act 2021* (25/2021)
- *Domestic Violence Act 2018* (6/2018)
- *Mediation Act 2017* (27/2017)
- *Housing (Miscellaneous Provisions) Act 2014* (21/2014)

- *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013)
- *Nursing Homes Support Scheme Act 2009* (41/2009)
- *Land and Conveyancing Law Reform Act 2009* (27/2009)
- *Housing (Miscellaneous Provisions) Act 2009* (22/2009)
- *Nursing Homes Support Scheme Act 2009* (15/2009)
- *Civil Liability and Courts Act 2004* (31/2004)
- *Courts and Court Officers Act 2002* (15/2002)
- *Housing (Miscellaneous Provisions) Act 2002* (9/2002)
- *Planning and Development Act 2000* (30/2000)
- *Finance Act 1998* (3/1998)
- *Family Law (Divorce) Act 1996* (33/1996)
- *Domestic Violence Act 1996* (1/1996)
- *Civil Legal Aid Act 1995* (32/1995)
- *Family Law Act 1995* (26/1995)
- *Consumer Credit Act 1995* (24/1995)
- *Courts Act 1991* (20/1991)
- *Judicial Separation and Family Law Reform Act 1989* (6/1989)
- *Housing (Private Rented Dwellings) Act 1982* (6/1982)
- *Family Law Act 1981* (22/1981)
- *Family Law (Protection of Spouses and Children) Act 1981* (21/1981)
- *Courts Act 1981* (11/1981)

All Acts up to and including *Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023* (15/2023), enacted 22 June 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Registration of Deeds Rules 2008* (S.I. No. 52 of 2008)

All statutory instruments up to and including *Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022 (Commencement) Order 2023* (S.I. No. 321 of 2023), made 21 June 2023, were considered in the preparation of this revision.