



# Matrimonial Homes and Property Act 1981

## 1981 CHAPTER 24

### PART II

#### ORDERS FOR SALE OF PROPERTY

#### 7 Powers of court to order sale of property in matrimonial proceedings

After section 24 of the Matrimonial Causes Act 1973 there shall be inserted the following section—

**“24A Orders for sale of property**

- (1) Where the court makes under section 23 or 24 of this Act a secured periodical payments order, an order for the payment of a lump sum or a property adjustment order, then, on making that order or at any time thereafter, the court may make a further order for the sale of such property as may be specified in the order, being property in which or in the proceeds of sale of which either or both of the parties to the marriage has or have a beneficial interest, either in possession or reversion.
- (2) Any order made under subsection (1) above may contain such consequential or supplementary provisions as the court thinks fit and, without prejudice to the generality of the foregoing provision, may include—
  - (a) provision requiring the making of a payment out of the proceeds of sale of the property to which the order relates, and
  - (b) provision requiring any such property to be offered for sale to a person, or class of persons, specified in the order.
- (3) Where an order is made under subsection (1) above on or after the grant of a decree of divorce or nullity of marriage, the order shall not take effect unless the decree has been made absolute.

- (4) Where an order is made under subsection (1) above, the court may direct that the order, or such provision thereof as the court may specify, shall not take effect until the occurrence of an event specified by the court or the expiration of a period so specified.
- (5) Where an order under subsection (1) above contains a provision requiring the proceeds of sale of the property to which the order relates to be used to secure periodical payments to a party to the marriage, the order shall cease to have effect on the death or re-marriage of that person.”

## **8 Amendments consequential on powers of court to order sale of property**

- (1) In section 25 of the Matrimonial Causes Act 1973 (which specifies the matters to which the court is to have regard in deciding how to exercise its powers under sections 23 and 24) in subsections (1), (2) and (3) for the words " or 24 " there shall be substituted the words " 24 or 24A, " and at the end of that section there shall be added the following subsection—
  - “(4) Where a party to a marriage has a beneficial interest in any property, or in the proceeds of sale thereof, and some other person who is not a party to the marriage also has a beneficial interest in that property or in the proceeds of sale thereof, then, before deciding whether to make an order under section 24A above in relation to that property, it shall be the duty of the court to give that other person an opportunity to make representations with respect to the order; and any representations made by that other person shall be included among the circumstances to which the court is required to have regard under this section.”
- (2) In section 31 of the said Act of 1973 (which provides for the variation and discharge of certain orders for financial relief)—
  - (a) at the end of subsection (2) there shall be inserted the following paragraph—
    - “(f) any order made under section 24A(1) above for the sale of property”;
  - (b) in subsection (6) for the words "may be made by the person entitled to payments under the order" there shall be substituted the words " (and to any order made under section 24A(1) above which requires the proceeds of sale of property to be used for securing those payments) may be made by the person entitled to payments under the periodical payments order. "
- (3) In paragraph 11 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973 (which relates to the effect on an order for periodical payments of the stay of proceedings for divorce, judicial separation or nullity of marriage) after sub-paragraph (3) there shall be inserted the following sub-paragraph—
  - “(3A) Where any such order as is mentioned in paragraph (e) of section 23(1) of the Matrimonial Causes Act 1973, being an order made under section 23(1) or (2)(a) of that Act, ceases to have effect by virtue of sub-paragraph (2) or (3) above, any order made under section 24A(1) of that Act which requires the proceeds of sale of property to be used for securing periodical payments under the first mentioned order shall also cease to have effect.”