



Family Law Act 1996

1996 CHAPTER 27

PART IV

FAMILY HOMES AND DOMESTIC VIOLENCE

Rights to occupy matrimonial [^{F1}or civil partnership] home

Textual Amendments

- F1** Words in cross-heading preceding s. 30 substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 1\(1\)\(11\)](#); S.I. 2005/3175, [art. 2\(1\)](#), Sch. 1

30 Rights concerning [^{F2}home where one spouse or civil partner] has no estate, etc.

- (1) This section applies if—
- (a) one spouse [^{F3} or civil partner (“A”)] is entitled to occupy a dwelling-house by virtue of—
 - (i) a beneficial estate or interest or contract; or
 - (ii) any enactment giving [^{F4}A] the right to remain in occupation; and
 - (b) the other spouse [^{F5} or civil partner (“B”)] is not so entitled.
- (2) Subject to the provisions of this Part, [^{F6}B] has the following rights ([^{F7}home rights”])
- (a) if in occupation, a right not to be evicted or excluded from the dwelling-house or any part of it by [^{F8}A] except with the leave of the court given by an order under section 33;
 - (b) if not in occupation, a right with the leave of the court so given to enter into and occupy the dwelling-house.
- (3) If [^{F9}B] is entitled under this section to occupy a dwelling-house or any part of a dwelling-house, any payment or tender made or other thing done by [^{F9}B] in or towards satisfaction of any liability of [^{F10}A] in respect of rent, mortgage payments or

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other outgoings affecting the dwelling-house is, whether or not it is made or done in pursuance of an order under section 40, as good as if made or done by [F10A].

- (4) [F11B's] occupation by virtue of this section—
- (a) is to be treated, for the purposes of the ^{M1}Rent (Agriculture) Act 1976 and the ^{M2}Rent Act 1977 (other than Part V and sections 103 to 106 of that Act), as occupation [F12]by A as A's] residence, and
 - (b) if [F13B occupies the dwelling-house as B's] only or principal home, is to be treated, for the purposes of the ^{M3}Housing Act 1985 [F14, Part I of the Housing Act 1988 and Chapter I of Part V of the Housing Act 1996], as occupation [F15]by A as A's] only or principal home.
- (5) If [F16B)]—
- (a) is entitled under this section to occupy a dwelling-house or any part of a dwelling-house, and
 - (b) makes any payment in or towards satisfaction of any liability of [F17A] in respect of mortgage payments affecting the dwelling-house,
- the person to whom the payment is made may treat it as having been made by [F18A], but the fact that that person has treated any such payment as having been so made does not affect any claim of [F19B against A] to an interest in the dwelling-house by virtue of the payment.
- (6) If [F20B] is entitled under this section to occupy a dwelling-house or part of a dwelling-house by reason of an interest of [F21A] under a trust, all the provisions of subsections (3) to (5) apply in relation to the trustees as they apply in relation to [F21A].
- (7) This section does not apply to a dwelling-house [F22] which—
- (a) in the case of spouses, has at no time been, and was at no time intended by them to be, a matrimonial home of theirs; and
 - (b) in the case of civil partners, has at no time been, and was at no time intended by them to be, a civil partnership home of theirs.]
- (8) [F23B's home rights] continue—
- (a) only so long as the marriage [F24]or civil partnership] subsists, except to the extent that an order under section 33(5) otherwise provides; and
 - (b) only so long as [F25A] is entitled as mentioned in subsection (1) to occupy the dwelling-house, except where provision is made by section 31 for those rights to be a charge on an estate or interest in the dwelling-house.
- (9) It is hereby declared that [F26]a person]—
- (a) who has an equitable interest in a dwelling-house or in its proceeds of sale, but
 - (b) is not [F26]a person] in whom there is vested (whether solely or as joint tenant) a legal estate in fee simple or a legal term of years absolute in the dwelling-house,
- is to be treated, only for the purpose of determining whether he has [F27]home rights], as not being entitled to occupy the dwelling-house by virtue of that interest.

Textual Amendments

F2 Words in s. 30 heading substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 82, 263, [Sch. 9 para. 1\(1\)\(11\)](#); [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

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- F3** Words in s. 30(1)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(2)(a)(i)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F4** Words in s. 30(1)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(2)(a)(ii)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F5** Words in s. 30(1)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(2)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F6** Words in s. 30(2) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(3)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F7** Words in s. 30(2) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(3)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F8** Words in s. 30(2)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(3)(c)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F9** Words in s. 30(3) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(4)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F10** Words in s. 30(3) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(4)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F11** Words in s. 30(4) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(5)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F12** Words in s. 30(4)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(5)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F13** Words in s. 30(4)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(5)(c)(i)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F14** Words in s. 30(4)(b) substituted (12.2.1997) by S.I. 1997/74, art. 2, **Sch. para. 10(a)**
- F15** Words in s. 30(4)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(5)(c)(ii)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F16** Words in s. 30(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(6)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F17** Words in s. 30(5)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(6)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F18** Word in s. 30(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(6)(c)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F19** Words in s. 30(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(6)(d)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F20** Word in s. 30(6) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(7)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F21** Word in s. 30(6) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(7)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F22** Words in s. 30(7) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(8)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F23** Words in s. 30(8) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(9)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F24** Words in s. 30(8)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(9)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F25** Word in s. 30(8)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(9)(c)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F26** Words in s. 30(9) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(10)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F27** Words in s. 30(9) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 1(1)(10)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Marginal Citations

- M1** 1976 c. 80.
M2 1977 c. 42.

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M3 1985 c. 68.

31 Effect of [F28 home rights] as charge on dwelling-house.

- (1) Subsections (2) and (3) apply if, at any time during a [F29 marriage or civil partnership, A] is entitled to occupy a dwelling-house by virtue of a beneficial estate or interest.
- (2) [F30 B's home rights] are a charge on the estate or interest.
- (3) The charge created by subsection (2) has the same priority as if it were an equitable interest created at whichever is the latest of the following dates—
 - (a) the date on which [F31 A] acquires the estate or interest;
 - (b) the date of the marriage [F32 or of the formation of the civil partnership]; and
 - (c) 1st January 1968 (the commencement date of the M4 Matrimonial Homes Act 1967).
- (4) Subsections (5) and (6) apply if, at any time when [F33 B's home rights] are a charge on an interest of [F34 A] under a trust, there are, apart from [F35 A or B], no persons, living or unborn, who are or could become beneficiaries under the trust.
- (5) The rights are a charge also on the estate or interest of the trustees for [F36 A].
- (6) The charge created by subsection (5) has the same priority as if it were an equitable interest created (under powers overriding the trusts) on the date when it arises.
- (7) In determining for the purposes of subsection (4) whether there are any persons who are not, but could become, beneficiaries under the trust, there is to be disregarded any potential exercise of a general power of appointment exercisable by either or both of [F37 A and B] alone (whether or not the exercise of it requires the consent of another person).
- (8) Even though [F38 B's home rights] are a charge on an estate or interest in the dwelling-house, those rights are brought to an end by—
 - (a) the death of [F39 A], or
 - (b) the termination (otherwise than by death) of the marriage [F40 or civil partnership],
 unless the court directs otherwise by an order made under section 33(5).
- (9) If—
 - (a) [F41 B's home rights] are a charge on an estate or interest in the dwelling-house, and
 - (b) that estate or interest is surrendered to merge in some other estate or interest expectant on it in such circumstances that, but for the merger, the person taking the estate or interest would be bound by the charge,
 the surrender has effect subject to the charge and the persons thereafter entitled to the other estate or interest are, for so long as the estate or interest surrendered would have endured if not so surrendered, to be treated for all purposes of this Part as deriving title to the other estate or interest under [F42 A] or, as the case may be, under the trustees for [F42 A], by virtue of the surrender.
- (10) If the title to the legal estate by virtue of which [F43 A] is entitled to occupy a dwelling-house (including any legal estate held by trustees for [F43 A]) is registered under the [F44 Land Registration Act 2002] or any enactment replaced by that Act—

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- (a) registration of a land charge affecting the dwelling-house by virtue of this Part is to be effected by registering a notice under that Act; and
- [^{F45}(b) [^{F46}B’s home rights] are not to be capable of falling within paragraph 2 of Schedule 1 or 3 to that Act.]
- (11) ^{F47}
- (12) If—
- [^{F48}(a) B’s home rights are a charge on the estate of A or of trustees of A, and]
- (b) that estate is the subject of a mortgage,
- then if, after the date of the creation of the mortgage (“the first mortgage”), the charge is registered under section 2 of the ^{M5}Land Charges Act 1972, the charge is, for the purposes of section 94 of the ^{M6}Law of Property Act 1925 (which regulates the rights of mortgagees to make further advances ranking in priority to subsequent mortgages), to be deemed to be a mortgage subsequent in date to the first mortgage.
- (13) It is hereby declared that a charge under subsection (2) or (5) is not registrable under subsection (10) or under section 2 of the Land Charges Act 1972 unless it is a charge on a legal estate.

Textual Amendments

- F28** Words in s. 31 heading substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(12)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F29** Words in s. 31(1) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(2)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F30** Words in s. 31(2) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F31** Words in s. 31(3)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(4)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F32** Words in s. 31(3)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(4)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F33** Words in s. 31(4) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(5)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F34** Words in s. 31(4) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(5)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F35** Words in s. 31(4) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(5)(c)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F36** Words in s. 31(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(6)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F37** Words in s. 31(7) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(7)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F38** Words in s. 31(8) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(8)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F39** Words in s. 31(8)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(8)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F40** Words in s. 31(8)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(8)(c)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F41** Words in s. 31(9)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(9)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F42** Word in s. 31(9) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(9)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

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- F43** Word in s. 31(10) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(10)(a)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F44** Words in s. 31(10) substituted (13.10.2003) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 34(2)(a) (with s. 129); S.I. 2003/1725, **art. 2(1)** (subject to art. 2(2))
- F45** S. 31(10)(b) substituted (13.10.2003) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 34(2)(b) (with s. 129); S.I. 2003/1725, **art. 2(1)** (subject to art. 2(2))
- F46** Words in s. 31(10)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(10)(b)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1
- F47** S. 31(11) repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, **art. 2(1)** (subject to art. 2(2))
- F48** S. 31(12)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 2(1)(11)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Modifications etc. (not altering text)

- C1** S. 31(10) restricted (1.10.1997) by 1996 c. 27, s. 32, **Sch. 4 para. 2**; S.I. 1997/1892, **art. 3**
S. 31(10) extended (1.10.1997) by 1996 c. 27, s. 32, **Sch. 4 para. 4(3)(b)**; S.I. 1997/1892, **art. 3**

Marginal Citations

- M4** 1967 c. 75.
M5 1972 c. 61.
M6 1925 c. 20.

[^{F49}32 Further provisions relating to home rights.

Schedule 4 (provisions supplementary to sections 30 and 31) has effect.]

Textual Amendments

- F49** S. 32 substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 82, 263, **Sch. 9 para. 3**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

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