



Administration of Justice Act 1970

1970 CHAPTER 31

PART IV

ACTIONS BY MORTGAGEES FOR POSSESSION

36 Additional powers of court in action by mortgagee for possession of dwelling-house.

- (1) Where the mortgagee under a mortgage of land which consists of or includes a dwelling-house brings an action in which he claims possession of the mortgaged property, not being an action for foreclosure in which a claim for possession of the mortgaged property is also made, the court may exercise any of the powers conferred on it by subsection (2) below if it appears to the court that in the event of its exercising the power the mortgagor is likely to be able within a reasonable period to pay any sums due under the mortgage or to remedy a default consisting of a breach of any other obligation arising under or by virtue of the mortgage.
- (2) The court—
 - (a) may adjourn the proceedings, or
 - (b) on giving judgment, or making an order, for delivery of possession of the mortgaged property, or at any time before the execution of such judgment or order, may—
 - (i) stay or suspend execution of the judgment or order, or
 - (ii) postpone the date for delivery of possession,for such period or periods as the court thinks reasonable.
- (3) Any such adjournment, stay, suspension or postponement as is referred to in subsection (2) above may be made subject to such conditions with regard to payment by the mortgagor of any sum secured by the mortgage or the remedying of any default as the court thinks fit.
- (4) The court may from time to time vary or revoke any condition imposed by virtue of this section.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1970, Part IV. (See end of Document for details)

- (5) This section shall have effect in relation to such an action as is referred to in subsection (1) above begun before the date on which this section comes into force unless in that action judgment has been given, or an order made, for delivery of possession of the mortgaged property and that judgment or order was executed before that date.
- (6) In the application of this section to Northern Ireland, “the court” means a judge of the High Court in Northern Ireland, and in subsection (1) the words from “not being” to “made” shall be omitted.

Modifications etc. (not altering text)

C1 s. 36 extended by [Administration of Justice Act 1973 \(c. 15\)](#), **ss. 8, 21(2)(b)**

37, 38. Exclusive jurisdiction of county court in certain mortgage actions.

F1

Textual Amendments

F1 Ss. 37, 38, 45(2) repealed by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), **Sch. 4**

[^{F2}38A

This Part of this Act shall not apply to a mortgage securing an agreement which is a regulated agreement within the meaning of the ^{M1}Consumer Credit Act 1974.]

Textual Amendments

F2 S. 38A inserted by [Consumer Credit Act 1974 \(c. 39\)](#), s. 192(4), **Sch. 4 Pt. I para. 30**

Marginal Citations

M1 1974 c. 39.

39 Interpretation of Part IV.

- (1) In this Part of this Act—
- “dwelling-house” includes any building or part thereof which is used as a dwelling;
- “mortgage” includes a charge and “mortgagor” and “mortgagee” shall be construed accordingly;
- “mortgagor” and “mortgagee” includes any person deriving title under the original mortgagor or mortgagee.
- (2) The fact that part of the premises comprised in a dwelling-house is used as a shop or office or for business, trade or professional purposes shall not prevent the dwelling-house from being a dwelling-house for the purposes of this Part of this Act.

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

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