



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Status: This is the original version (as it was originally enacted).

- (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.