



Family Law (Scotland) Act 2006

2006 asp 2

Matrimonial homes

6 Occupancy rights: dealings with third parties

(1) Section 6 of the 1981 Act (continued exercise of occupancy rights after dealing) shall be amended in accordance with subsections (2) and (3).

(2) After subsection (1), there shall be inserted—

“(1A) The occupancy rights of a non-entitled spouse in relation to a matrimonial home shall not be exercisable in relation to the home where, following a dealing of the entitled spouse relating to the home—

- (a) a person acquires the home, or an interest in it, in good faith and for value from a person other than the person who is or, as the case may be, was the entitled spouse; or
- (b) a person derives title to the home from a person who acquired title as mentioned in paragraph (a).”

(3) In subsection (3)—

(a) in paragraph (e)—

- (i) for “sale”, where it first occurs, there shall be substituted “transfer for value”; and
- (ii) for the words from “seller”, where it first occurs, to the end of the paragraph there shall be substituted “transferor—

- (i) a written declaration signed by the transferor, or a person acting on behalf of the transferor under a power of attorney or as a guardian (within the meaning of the Adults with Incapacity (Scotland) Act 2000 (asp 4)), that the subjects of the transfer are not, or were not at the time of the dealing, a matrimonial home in relation to which a spouse of the transferor has or had occupancy rights; or

- (ii) a renunciation of occupancy rights or consent to the dealing which bears to have

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been properly made or given by the non-entitled spouse or a person acting on behalf of the non-entitled spouse under a power of attorney or as a guardian (within the meaning of the Adults with Incapacity (Scotland) Act 2000 (asp 4)).”; and

- (b) in paragraph (f), for “5” there shall be substituted “2”.