



---

**AN BILLE UM THEACH AN PHÓSTA, 1993**  
**MATRIMONIAL HOME BILL 1993**

---

*Mar a ritheadh ag dhá Theach an Oireachtais*  
*As passed by both Houses of the Oireachtas*

---

**EXPLANATORY MEMORANDUM**

---

**General**

1. The object of the Bill is to give each spouse equal rights of ownership in the matrimonial home and household effects unless they already have these rights. It proposes that the home and effects will be held by both spouses jointly so that if one spouse dies the other becomes sole owner of the joint interest. (A "matrimonial home" is defined as a dwelling in which a married couple ordinarily resided or reside on or after 25th June 1993 as their sole or principal residence.)

**Main Features**

2. (a) Matrimonial homes (including mobile homes) and household chattels will vest in both spouses as joint owners (sections 4, 10 and 14). The surviving spouse will become full owner of the joint interest.

(b) In relation to farms, the Bill will not apply to the farm proper but only to the farmhouse and any land in the vicinity that is subsidiary and ancillary to it, is required for its amenity or convenience and is not being used or developed commercially (section 2 (1)).

(c) There are some exceptions:

(i) Joint ownership will not apply to matrimonial homes that are already owned by the spouses as joint tenants or as tenants in common in equal shares (section 5 (1)).

(ii) A spouse or a person intending to get married who would otherwise benefit from joint ownership may exclude the application of the Act if independent legal advice has been obtained beforehand (sections 7, 10 (3) and 10 (4) (a)).

(iii) The Bill will not affect orders made by a court regarding the ownership of homes in judicial separation proceedings or proceedings under the Family Home Protection Act 1976 (section 5 (6)).

(iv) A court may exclude the application of the Bill in a

particular case if it is satisfied that it would be unjust not to do so having regard to all the circumstances (*section 6*).

- (d) Questions arising under the Bill may be decided by the Circuit Court and, in the case of a matrimonial home with a valuation not exceeding £20, a mobile home or household chattels in either of them, by the District Court (*section 21*).
- (e) As regards the conveyancing implications of the Bill, matrimonial homes in which both spouses are living are also "family homes" and so already need the prior consent of the non-owning spouse to any conveyance of an interest in them. A number of provisions have been incorporated with a view to minimising the additional conveyancing requirements necessarily arising from the Bill. These include provision for formal registration, in the Land Registry and Registry of Deeds, of joint ownership, an order disapplying joint ownership and a declaration opting out of it (*sections 8 (1), 6 (7) and 7 (3)*); giving a good title to a *bona fide* purchaser from one of the spouses if the purchase is for full value without notice (*section 9 (1) (b)*); and providing a time limit of 6 years after which a purchaser is freed from any interest vested in a spouse under the Bill if no action has been taken against the purchaser in the meantime and the spouse is not then in occupation of the home (*section 11*).
- (f) Amendments are being made to the Family Home Protection Act 1976 (including one aligning the definition of "family home" in that Act with that of "matrimonial home") with a view to simplifying conveyancing practices in relation to that Act (*section 23*).

#### *Implications for women*

3. Wives (and single women on marriage) who have no ownership interest in the matrimonial home at present will gain joint ownership. Wives (and single women on marriage) who are at present sole owners of such homes will lose sole ownership and become joint owners with their husbands.

## PART I

### PRELIMINARY AND GENERAL

4. *Section 1* contains the short title and provides for the joint ownership provisions of the Act coming into operation three months after it is passed. The other provisions, including those dealing with opting out of joint ownership (*sections 7, 10 (3) and 10 (4) (a)*), will operate from the passing of the Act.

5. *Section 2* sets out various definitions. The most important are those relating to "dwelling" and "matrimonial home", which are interlinked. A matrimonial home is a dwelling in which a married couple ordinarily resided or reside on or at any time since 25th June 1993 (the date of publication of the Bill) as their sole or principal residence. Holiday homes, for example, are excluded. The matrimonial home must be a building or part of a building occupied as a separate dwelling (e.g. a farmhouse, semi-detached house or flat). Matrimonial homes which are not buildings (e.g. mobile homes or

houseboats) are dealt with in *section 10*. The matrimonial home includes any garden or other land usually occupied with it, provided that the land is ancillary or subsidiary to it, is required for its amenity or convenience and is not being used or developed primarily for commercial purposes. Therefore in the case of a farm only the farmhouse and any garden or other such land in its vicinity will constitute the matrimonial home. (The definitions of "family home" and "dwelling" in the Family Home Protection Act 1976 are being amended in *section 23* to bring them into line with the definitions in this Bill.) The definition of matrimonial home includes any rights, easements (e.g. a right of way) or profits *à prendre* (i.e. rights to take something from another's land, such as turf) that are attached to the home and are exercisable over other land.

6. *Section 3* provides for the repeal of *section 12* of the Married Women's Status Act 1957, which dealt with the judicial determination of questions arising between spouses in relation to the title to or possession of property. It is being replaced by *section 18* of the Bill. *Subsection (2)* is a transitional provision.

## PART II

### JOINT OWNERSHIP OF MATRIMONIAL HOME

7. *Section 4* is the key section of the Bill. It provides that where either or both of the spouses is or are entitled to an interest in the matrimonial home that interest will vest in them as joint tenants. Under the joint tenancy the surviving spouse will acquire the entire interest. The section applies to matrimonial homes in existence on 25th June 1993 and to those subsequently created (*subsections (2)* and *(3)*). *Subsection (4)* makes it clear that the interest in the matrimonial home that vests in both spouses is to be an equitable, or beneficial, interest, whether or not the interest previously held by either or both the spouses was a "legal" interest. For example, one of the spouses may have been the full legal owner of the home and registered as such either in the Land Registry or in the title documents registered in the Registry of Deeds. The effect of the section is to vest an equitable interest in the home in both spouses as joint tenants, leaving only a bare legal estate vested in the spouse concerned unless, pursuant to *section 8*, both spouses become registered as co-owners. Or one of the spouses may have had only an equitable interest in the home, say in a typical mortgage situation, where the legal owner is the mortgagee. In that case an equitable interest also becomes vested in both spouses and the title of both spouses to that interest can be registered in the Land Registry or Registry of Deeds pursuant to *section 8*.

8. Any existing rights, etc. attached to the matrimonial home and exercisable over other land will continue after the vesting (*section 2 (1)*). *Subsection (5) (a)* deals with a situation where adjoining land is owned by either or both of the spouses or by either or both of them and another person and where rights over that land that are necessary for the enjoyment of the matrimonial home are not attached to the home but exist, say, by way of licence. The subsection makes provision in such a situation for the creation of whatever rights, etc. may be necessary for the reasonable, beneficial use, occupation and enjoyment of the home, subject to any rights of other persons having an estate or interest in the land. (If there is a consequential diminution in the value of another person's interest in the land, compensation may be payable — *section 17 (2) (b)*.) *Subsection (5) (b)* makes corresponding provision for any rights attached to other land and exercisable over the matrimonial home. *Subsection (6)* ensures that

any restrictions on dealing with, or the disposal of, the matrimonial home to which the interest in the home was originally subject will not affect the vesting of the joint ownership conferred by this section.

9. *Subsection (7) (a)* deals with a case where one of the spouses was joint tenant of an interest in the matrimonial home with one or more persons when this section applied to the home. In that situation the joint tenancy will be severed and become a tenancy in common with each of the original owners, including the spouse, holding the interest in equal shares. (Under a tenancy in common in equal shares each tenant may dispose of the share by will whereas under a joint tenancy each tenant's share passes on death to the surviving joint tenant or tenants.) The spouse's share of the tenancy in common will become vested in both spouses as joint tenants by the operation of this section. The subsection is concerned only with a subsisting joint tenancy of the matrimonial home itself. If other property was held under the joint tenancy, that property will continue to be held by the spouse and the other person or persons concerned as joint tenants. *Paragraph (b)* of the subsection covers the case where *both* spouses were joint tenants with others of an interest in the matrimonial home.

10. *Subsection (8)* disapplies the proviso to section 14 of the Landlord and Tenant Law Amendment Act, Ireland, 1860 ("Deasy's Act"). Section 14 provides that the benefit to a tenant of any covenant, or a tenant's liability for any breach of covenant, ceases once the tenant assigns the property provided that he or she gives notice of the assignment to the landlord. The effect of this subsection is that both the benefits and the liability in respect of any such covenants will apply to the statutory assignment to both spouses effected by this section without any requirement to give notice of the assignment to the landlord. *Subsection (9)* deems any rights, easements and profits *à prendre* over the matrimonial home or any other land arising by virtue of *subsection (5)* to be burdens to which section 72 (1) of the Registration of Title Act 1964 applies, i.e. they will be burdens affecting registered land without appearing on the register. *Subsection (10)* makes it clear that spouses are free to dispose of, divide or sever the interest conferred on them by this section and, if they do, that any resultant increase in the interest in the home held by one of the spouses will not be subject to the further operation of the section, i.e. it will not revest in both spouses as joint tenants. The subsection also covers alienation of the joint interest, or part of the interest, by operation of law, e.g. on the bankruptcy of one of the spouses. *Subsection (11)* authorises the High Court to impose a charge on the assets of a company in favour of each spouse if the interest in a matrimonial home was transferred to the company for the purpose of avoiding the application of this section to the home. The subsection applies to such transfers made on or after 25th June 1993.

11. *Subsection (1)* of *section 4* defines the kind of interest in a matrimonial home which will vest in both spouses by virtue of the section as being any interest in that home, whether it is legal or equitable or is real or personal estate. It includes an interest under a tenancy agreement, e.g. a periodic (weekly, monthly etc.) tenancy or a tenancy for a fixed term, but excludes an interest held as trustee or licensee. Also excluded are lettings made for the period of a person's employment and *bona fide* temporary convenience lettings.

12. *Section 5 (1)* provides that, where the matrimonial home is already owned by the spouses as joint tenants or as tenants in common in equal shares, vesting under *section 4* will not apply to it. *Subsection (2)* disapplies *section 4* where the spouse benefiting under it has been convicted of murdering the other spouse. *Subsection (3)* deals with the situation where a married couple may have separated, or agreed

to separate, during the three-month period between 25th June 1993 and the commencement of *section 4*. It makes the application of that section to the matrimonial home concerned subject and without prejudice to any separation agreement concluded between the spouses. *Subsection (4)* prevents a judgment mortgage being registered against the interest vested in the benefiting spouse under *section 4* in respect of pre-vesting debts or obligations of that spouse. Under *sections 12 and 45* of the Land Act 1965, as amended, the consent of the Minister for Agriculture, Food and Forestry is required to the subdivision or vesting of land in certain circumstances. *Subsection (5)* of this section provides that such consent will not be necessary to the vesting of an interest in both spouses under *section 4* or the registration of title under *section 8*. *Subsection (6)* makes it clear that enactment of the Bill will not prejudice a court from exercising its jurisdiction under *section 5* of the Family Home Protection Act 1976 or Part II of the Judicial Separation and Family Law Reform Act 1989 on or after the passing of the Act or affect any order under those provisions made before then. *Section 5* of the 1976 Act provides that where a spouse is engaged in conduct which may lead to loss of the family home the court may make such order as it considers proper for the protection of the family home in the interest of a spouse or dependent child. Part II of the 1989 Act empowers the court to make property adjustment orders when granting decrees of judicial separation.

13. Vesting of the home in both spouses by virtue of *section 4* may also be excluded by an order of the court under *section 6*. The court may hear an application for such an order from the non-benefiting spouse or, if that spouse has died, from his or her personal representative or from or on behalf of one of the children. Any order made has the effect of re-vesting the interest in the home in the applicant spouse or in his or her estate (*subsection (1)*). The application may be granted only if the court is satisfied that it would be unjust not to grant it having regard to all the circumstances, including any unreasonable conduct of the spouse who benefited from the vesting under *section 4*, any unreasonable failure or refusal by that spouse to contribute to mortgage payments, rent or any other necessary expenditure in relation to the home and, where appropriate, any consequential unfair enrichment of that spouse having regard to his or her financial circumstances. If the application is by the personal representative, or by or on behalf of a child, of a deceased spouse, the court must also take into account the fact that no application was made by the deceased during his or her lifetime (*subsection (5)*). Where the non-benefiting spouse has died, the exclusion order must be applied for not later than 9 months after the death or 3 months after the grant of representation, whichever is the later (*subsection (2)*). The personal representative or an adult child (or, with the prior approval of the court, a minor child) may give a written undertaking not to apply to the court under this section and in that case the person concerned will not be entitled so to apply (*subsection (3)*). *Subsection (7)* provides for the registration, in the Land Registry or Registry of Deeds, of a certified copy of any court order. These provisions are in the interests of furthering certainty in conveyancing transactions. The reference to mortgage in *subsection (5) (b)* includes a reference to an equitable mortgage (e.g. by deposit of title deeds) and also a charge on registered land but not a charge referred to in *section 22 (5) (b)* of the Building Societies Act 1989, e.g. a charge on land to secure payment of the whole or part of a conventional rent, fee farm rent or crown rent, a charge on land held under a lease or fee farm grant to secure moneys payable in the event of any breaches of covenants or conditions or any other charge specified by the Central Bank by regulations under *section 22 (5) (a)* of that Act (*subsection (8)*).

14. *Section 7*, which comes into operation on the passing of the

Act, allows a spouse or a person contemplating marriage who would otherwise benefit from joint ownership to exclude the application of *section 4* to the matrimonial home or intended matrimonial home by making a written declaration to that effect and having it registered in the Land Registry or Registry of Deeds. However, *subsection (2)* provides that a declaration will be void unless, before making it, the spouse or intended spouse has received independent legal advice in relation to the declaration and its effect. The Minister for Equality and Law Reform may by regulations provide that the declaration shall be in a specified form or a form to the like effect.

15. *Section 8 (1)* provides for the formal registration of the title of both spouses to the interest vested in them as joint tenants by *section 4*. In the case of registered land, it entitles both spouses, at the instance of either spouse, to be registered in the Land Registry as co-owners of the interest. In the case of unregistered land, provision is made for a declaration in writing to be made by either spouse that the interest has vested under *section 4* in both spouses and for the registration of a certified copy of the declaration in the Registry of Deeds. If the former sole owner had had a legal interest in the home, he or she would have retained a nominal legal interest in it after the vesting of the equitable interest in both spouses by virtue of *section 4*. In that event, the legal interest will, on registration in the Land Registry or Registry of Deeds, also vest in the spouses. Where formal registration of the joint ownership has not taken place during the former sole owner's lifetime, it may be effected by the surviving spouse. And if the surviving spouse has died without having had the full ownership vested, that spouse's personal representative can effect the necessary registration (*subsection (3) (b)*). While the equitable interest vesting in both spouses under *section 4* passes automatically to the surviving spouse, any nominal legal interest of the deceased in the home, evidenced by his or her name appearing as sole owner in the Land Registry or Registry of Deeds, passes to the personal representatives under Part II of the Succession Act 1965. *Subsection (3) (a)* provides that the personal representatives may not transfer any such interest to any person, pending its vesting in the other spouse, the surviving spouse or that spouse's personal representative, as the case may be. *Subsection (2)* is a technical provision. *Subsection (4)* provides for the making of rules by the Registration of Title Rules Committee in relation to registration under this section. Under *subsection (5)* the Minister for Equality and Law Reform may prescribe the form of declaration.

16. *Section 9* makes provision for the protection of the interest of a spouse who acquires an interest under *section 4* whenever there is a sale or transfer of a matrimonial home. It gives a purchaser a good title to the home, i.e. a title freed of any interest of that spouse, in four situations only. One is where the home is conveyed by both spouses by deed of conveyance. The second is where it is conveyed by only one of the spouses but the purchase is *bona fide* for full value and the purchaser is without notice of the fact that the home is a matrimonial home, i.e. after such inquiries and inspections as might reasonably have been made. The third is where the first conveyance of the home does not comply with either of the requirements just mentioned but the home is subsequently acquired by a person who buys it for full value without actual notice (knowledge) on the part of that person or his or her agent that the home is a matrimonial home (*subsection (1)*). *Subsection (2)* covers the remaining situation, i.e. where a court gives consent to the conveyance of an interest in the matrimonial home under *section 4 (4)* of the Family Home Protection Act 1976 on behalf of a spouse who is incapable of consenting by reason of unsoundness of mind or other mental disability or has not been found after reasonable inquiries.

17. Even where a purchaser acquires a good title to a matrimonial home under these provisions, the spouse who has acquired an interest under *section 4* will be entitled to recover the value of the interest from the proceeds of sale in the hands of the other spouse (*subsection (3)* and *section 18 (3)*). Also the requirement under the Family Home Protection Act 1976 to obtain the prior consent of the spouse concerned to any conveyance of the interest in the home will continue to apply. *Subsection (4)* provides that it shall not be the duty of the Registrar of Titles, before registering a person as owner of land, to ascertain whether any other person has an interest in that land arising by virtue of *section 4*.

18. *Section 10* provides for joint ownership of homes occupied by a married couple which are not permanently attached to land, e.g. mobile homes, caravans and houseboats. Separate provision is necessary for vesting joint ownership of these matrimonial homes in both spouses because *section 4*, applying as it does only to interests in land, is not appropriate in such cases. *Subsection (3)* of the section applies to mobile homes etc., with any necessary modifications, the provisions of *sections 4 (5)* (rights, etc. over land), *5 (3)* (joint ownership to be subject to terms of separation agreement), *6* (exclusion of joint ownership by court order), *7* (opting out of joint ownership), *15* (effect of bankruptcy) and *17 (2)* (determination by court of questions relating to rights, etc. over land). *Subsection (4)* provides for opting out of joint ownership by written declaration and for regulations prescribing the form of declaration.

19. *Section 11* provides that when six years have elapsed after the purchase of a matrimonial home from one of the spouses the purchaser will be deemed to hold the property free from any interest of the other spouse arising by virtue of *section 4*, unless the other spouse is then in actual occupation of the home. This provision is without prejudice to proceedings instituted within six years of the conveyance concerned and which are either registered as a *lis pendens* or of which the purchaser has actual notice. Somewhat analogous provision is being made in *section 23 (1) (b) (ii)* for the purposes of the Family Home Protection Act 1976.

20. *Section 12* exempts from court fees a certified copy of a court order under *section 6 (1)* and from registration fees the registration in the Land Registry or Registry of Deeds of that document or of a written declaration under *sections 7* or *8*. It also provides that no stamp duty is payable on written declarations.

21. *Section 13* deals with the case where one of the spouses, having mortgaged or charged an interest in the matrimonial home which became vested in both spouses by virtue of *section 4*, dies leaving the other spouse surviving him or her and acquiring the interest by survivorship. The section provides that *section 47* of the Succession Act 1965 will apply to that interest, with the result that it will be primarily liable for payment of the mortgage or charge. The charges excluded by this section are those mentioned in *paragraph 13* of this memorandum.

22. *Section 14* provides that the household chattels in a matrimonial or mobile home will belong to both spouses jointly in the absence of agreement to the contrary. Household chattels for this purpose are furniture, bedding, linen, china, earthenware, glass, books and other chattels of ordinary household use or ornament and also consumable stores, garden effects and domestic animals, but do not include any

chattels used by either spouse for business or professional purposes or money or security for money.

23. *Section 15* makes provision for the situation where one or other of the spouses is or becomes a bankrupt or an arranging debtor. If the spouse who would acquire an interest under *section 4* is already a bankrupt or an arranging debtor, that section will not apply to create a joint interest in the home. If the other spouse is adjudicated bankrupt or becomes an arranging debtor after the joint tenancy has been created under *section 4* or *10*, only that spouse's share of the joint interest will vest in the Official Assignee or other person designated for the purposes of the arrangement. *Subsection (5)* provides that, if the benefiting spouse is subsequently made bankrupt or becomes an arranging debtor, that spouse's interest in the home may not be realised for the benefit of creditors in respect of debts or obligations of the spouse arising before the joint ownership was created. *Subsection (6)* provides that the household chattels which are jointly owned by virtue of *section 14* will not vest in the Official Assignee by virtue of section 44 of the Bankruptcy Act 1988 and that those chattels will be in addition to the other articles the bankrupt is entitled to retain under section 45 of that Act. This section is applied to mobile homes by *section 10 (3)* of the Bill.

24. *Section 16* is a transitional provision affecting any enforceable agreements for the sale of an interest in a matrimonial home entered into, but not completed, by a spouse before the commencement of *section 4*. The section provides for the completion of the sale as if the Act had not been passed, without prejudice to the interest of the other spouse in the purchase money.

25. *Section 17* gives the court jurisdiction to determine various questions relating to a matrimonial home, such as the precise area of the land comprising the home, the apportionment of any rent, any question arising under *section 9* in connection with a conveyance of the home or the existence, nature or extent of any rights, etc. exercisable over the home or other land. If the rights, etc. are exercisable by virtue of *section 4 (5) (a)* over land that is jointly owned by either or both of the spouses and another person, the court may order compensation to be paid by either or both of the spouses to that other person for any consequential diminution in the value of that person's interest in the land (*subsection (2) (b)*).

### PART III

#### MISCELLANEOUS

26. *Section 18* replaces section 12 of the Married Women's Status Act 1957, which provided for the determination of questions between spouses as to the title to or possession of any property and which is being repealed by *section 3* of the Bill. In particular, it empowers the court to make an order for the sale or partition of the property in dispute and it allows a spouse (or a child of a deceased spouse) to seek redress where it is claimed that the other spouse has had in his or her possession property (including money) belonging to that spouse or child and has not paid over the property or its value (*subsections (2) to (4)*).

27. *Subsection (5)* provides that in proceedings under this section any party (other than the spouses or child concerned) will be treated as a stakeholder for the purposes of costs or otherwise. This provision is for the protection of trustees and others who may hold "matrimonial" money or property in a fiduciary capacity. *Subsection (6)*



repeats section 12 (6) of the Married Women's Status Act 1957 to make it clear that *section 18* does not affect the legal capacity of a married woman as set out in section 2 of that Act, including the capacity to sue her husband in contract and tort.

28. *Subsection (7)* imposes a time limit of three years on applications under this section in cases where marriages have been annulled or where there has been a foreign divorce which is recognised here. The limit applies from the date of the annulment or divorce. A similar limit applies where a marriage is void but has not been so declared and it runs from the time the parties have ceased to be ordinarily resident together. *Subsection (8)* makes it clear that applications to the court under this section may be made not only by parties to a valid marriage but also, subject to the time limits mentioned, by the personal representative of a deceased spouse and in addition by parties to marriages that are void (even if not declared to be such) or are voidable and annulled or have been the subject of a foreign divorce that is recognised here. An exception is where the matters in dispute are between parties to marriages that are void or have been annulled and where the matters in dispute arise by virtue of the joint ownership provisions of *Part II* of the Bill. These provisions are not applicable in such situations.

29. *Section 19* is an avoidance of doubt provision. Section 5 (1) of the Family Law Act 1981 applied to formerly engaged couples the rules of law relating to the rights of spouses in property. *Section 19* makes it clear that that section relates only to the determination of disputes between spouses in relation to the beneficial ownership of property and does not, in particular, relate to the rights of spouses under the Succession Act 1965, the Family Home Protection Act 1976, the Judicial Separation and Family Law Reform Act 1989 or *Part II* of the Bill.

30. *Section 20* treats a spouse who has made a substantial financial contribution to the improvement of real or personal property (other than household chattels) belonging to either or both of the spouses as having acquired a share, or an enlarged share as the case may be, in that property to whatever extent may be agreed between them or may be determined by the court. The section does not apply to contributions to the improvement of matrimonial homes or mobile homes that are jointly owned by both spouses, whether by virtue of *Part II* or otherwise.

31. *Section 21* provides that the Circuit Court may exercise jurisdiction under the Bill. Jurisdiction may also be exercised by the District Court in so far as the proceedings relate to a matrimonial home with a rateable valuation not exceeding £20 or a mobile home or the household chattels in either of them. *Subsection (2)* requires the Circuit Court, on application by the respondent, to transfer proceedings to the High Court where the rateable valuation of the land in question exceeds £200. *Subsection (3)* is a technical jurisdictional provision. *Subsection (4)* authorises the District Court, where a matrimonial home is not valued or is not separately valued, to determine for the purposes of this section whether its valuation would, or would not, exceed £20. *Subsection (5)* gives the District Court jurisdiction, within the same valuation limit, in Land Registry matters affecting matrimonial homes.

32. *Section 22 (1)* provides that proceedings under the Act are to be heard otherwise than in public. *Subsections (2) and (3)* apply sections 33 and 45 of the Judicial Separation and Family Law Reform Act 1989 to proceedings under this Bill. Both sections deal with the conduct of family law proceedings and require that the proceedings

be as informal as is practicable and consistent with the administration of justice and that neither wigs nor gowns be worn by the judge or the lawyers appearing in the proceedings.

33. **Section 23** amends the Family Home Protection Act 1976 and the Judicial Separation and Family Law Reform Act 1989. As regards future conveyances, transactions, etc., *subsections (1) (a) and (2)* amend the 1976 Act's definitions of "family home" and "dwelling" to make them correspond with the definitions of "matrimonial home" and "dwelling" (so far as it relates to non-mobile homes) in *section 2 (1)* of the Bill. *Subsection (1) (b) (ii)* provides that proceedings may not be instituted to have a conveyance declared void by reason of the absence of a spouse's prior consent any later than six years after the date of the conveyance, unless that spouse is then in occupation of the family home. (This provision is without prejudice to any right of that spouse to seek redress otherwise than in such proceedings.) It is also provided that a conveyance is deemed not to be void for that reason unless it has been so declared by a court or unless it is void and the parties to the conveyance or their successors in title so state in writing within six years after the date of the conveyance. Finally, provision is made for a spouse to give a valid general consent in writing to any subsequent conveyance of any interest in a dwelling. *Subsection (3)* preserves any rights under the 1976 Act of spouses who were ordinarily residing, or had so resided, in a family home before the passing of this Act.

34. *Subsection (4) of section 23* amends the 1989 Act to authorise a court, when granting a decree of judicial separation, to make an order under *section 6 or 18* of this Bill. Under *subsection (5)*, where the ownership of a matrimonial home is vested by the court in one of the spouses in judicial separation proceedings, it must, unless it sees reason to the contrary, order that the other spouse's consent under the 1976 Act to any future sale of the home will not be necessary.

35. **Section 24** restricts the operation of section 8 of the Capital Acquisition Tax Act 1976 in its application to a gift or inheritance of an interest in a dwelling which is or becomes a matrimonial home. This section ensures that the spouse who acquires a joint tenancy of the interest in the home by virtue of *section 4* will not be deemed for the purposes of section 8 to have acquired it as a gift or inheritance taken from the original donor.

36. **Section 25** is the usual provision for laying regulations (under *sections 7 (7), 8 (5) and 10 (4) (b)*) before both Houses of the Oireachtas.

*An Roinn Comhionannais agus Athchóirithe Dlí,*  
*Samhain, 1993.*

