



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 2 **S**

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1 **S**

PLEDGE

Enforcement of pledge

PROSPECTIVE

66 Whether court order required for enforcement **S**

- (1) A court order is required for enforcing a pledge only—
 - (a) as mentioned in [subsections \(2\) and \(3\)](#),
 - (b) where taking possession of, or steps in relation to, encumbered property in accordance with [section 67\(3\) or \(4\)](#).
- (2) In a case where the provider of a pledge is an individual, a court order is required for enforcing the pledge if the provider is a sole trader and enforcement is against property used wholly or mainly for the purposes of the provider's business.
- (3) A court order is required for enforcing a statutory pledge in respect of property which is the sole or main residence of an individual unless, after the pledge becomes enforceable by virtue of [section 64\(2\)](#), the following persons agree in writing to its being enforced without such an order—
 - (a) the secured creditor,
 - (b) the provider, and
 - (c) the individual whose sole or main residence is the property in question (if a person other than the provider).

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 66. (See end of Document for details)

- (4) The court is not to grant an order required by [subsection \(3\)](#) unless satisfied that enforcement is reasonable having had regard to all the circumstances of the case.
- (5) Those circumstances include—
- (a) the nature of, and reason for, the default by virtue of which authority to enforce is sought,
 - (b) whether the person in default has the ability to remedy the default within a reasonable time,
 - (c) whether the secured creditor has done anything to help the person in default remedy the default,
 - (d) where it is, or was, appropriate for the person in default to take part in a debt payment programme approved under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002, whether that person is taking part, or has taken part, in such a programme, and
 - (e) whether reasonable alternative accommodation is available for (or can be expected to be available for) the individual whose sole or main residence is the property in question.

Commencement Information

II S. 66 not in force at Royal Assent, see [s. 121\(2\)](#)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 66.