



# Moveable Transactions (Scotland) Act 2023 2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

##### *Enforcement of pledge*

PROSPECTIVE

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

- (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).

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*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)*

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- (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.

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**Commencement Information**

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

**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.