



# Moveable Transactions (Scotland) Act 2023

2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

PROSPECTIVE

*Rights relating to matrimonial or family home where relevant to a statutory pledge*

#### **56 Occupancy and other rights in family home following grant of statutory pledge**

- (1) The Matrimonial Homes (Family Protection) (Scotland) Act 1981 (“the 1981 Act”) and the Civil Partnership Act 2004 (“the 2004 Act”) are amended in accordance with [this section](#).
- (2) After section 2(8) of the 1981 Act and section 102(8) of the 2004 Act, insert—

“(8A) In subsection (1)(a), “secured loan” includes secured obligation (construed in accordance with [section 43\(1\)](#) of the Moveable Transactions (Scotland) Act 2023).”.
- (3) In section 3 of the 1981 Act and section 103 of the 2004 Act, at the end of subsection (2) insert “or the rights of any secured creditor in relation to the non-performance of a secured obligation.”.
- (4) After section 3(8) of the 1981 Act, insert—

“(9) In subsection (2)—

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Cross Heading: Rights relating to matrimonial or family home where relevant to a statutory pledge. (See end of Document for details)*

“secured creditor” has the meaning given by [section 113\(1\)](#) of the Moveable Transactions (Scotland) Act 2023, and

“secured obligation” is to be construed in accordance with [section 43\(1\)](#) of the Moveable Transactions (Scotland) Act 2023.”.

(5) After section 103(9) of the 2004 Act, insert—

“(10) In subsection (2)—

“secured creditor” has the meaning given by [section 113\(1\)](#) of the Moveable Transactions (Scotland) Act 2023, and

“secured obligation” is to be construed in accordance with [section 43\(1\)](#) of the Moveable Transactions (Scotland) Act 2023.”.

(6) In section 6(2) of the 1981 Act and section 106(2) of the 2004 Act, in the definition of “dealing”, after the words “heritable security” insert “, the grant of a statutory pledge”.

(7) In section 8 of the 1981 Act, after subsection (2B) insert—

“(2C) For the purposes of subsection (2A) above, the time of granting a security, in the case of a statutory pledge, is—

- (a) the date of delivery of the constitutive document of the statutory pledge, or
- (b) where the statutory pledge is granted in an amendment document, the date of delivery of that document.”.

(8) In section 108 of the 2004 Act, after subsection (4) insert—

“(5) For the purposes of subsection (3), the time of granting a security, in the case of a statutory pledge, is—

- (a) the date of delivery of the constitutive document of the statutory pledge, or
- (b) where the statutory pledge is granted in an amendment document, the date of delivery of that document.”.

(9) The title of section 8 of the 1981 Act and section 108 of the 2004 Act becomes “**Interests of creditors**”.

#### Commencement Information

**II** S. 56 not in force at Royal Assent, see [s. 121\(2\)](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Cross Heading: Rights relating to matrimonial or family home where relevant to a statutory pledge.