



Matrimonial Homes (Family Protection) (Scotland) Act 1981

1981 CHAPTER 59

Protection of rights of spouse against arrangements intended to defeat them

10^{F1}

Textual Amendments

F1 S. 10 repealed by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\)](#), ss. 75(2), 78(5), [Sch. 8](#)

11 **Poiding.**

Where [^{F2}an attachment]^{F2} has been executed of furniture and plenishings of which the debtor's spouse has the possession or use by virtue of an order under section 3(3) or (4) of this Act, the sheriff, on the application of that spouse within 40 days of the date of execution of [^{F3}the attachment]^{F3}, may—

- (a) declare that [^{F3}the attachment]^{F3} is null; or
- (b) make such order as he thinks appropriate to protect such possession or use by that spouse,

if he is satisfied that the purpose of the diligence was wholly or mainly to prevent such possession or use.

Textual Amendments

F2 Words in s.11 substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), ss. 61, 64(2), [Sch. 3 Pt. 1 para. 13\(a\)](#)

F3 Words in s. 11 substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp. 17\)](#), ss. 61, 64(2), [Sch. 3 Pt. 1 para. 13\(b\)](#)

Changes to legislation: *Matrimonial Homes (Family Protection) (Scotland) Act 1981, Cross Heading: Protection of rights of spouse against arrangements intended to defeat them is up to date with all changes known to be in force on or before 20 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

- C1 S. 11 applied with modifications by [Family Law \(Scotland\) Act 1985 \(c. 37, SIF 49:3\)](#), **ss. 14(5)(b)** (iii), 29(4)

12 Adjudication.

- (1) Where a matrimonial home of which there is an entitled spouse and a non-entitled spouse is adjudged, the Court of Session, on the application of the non-entitled spouse within 40 days of the date of the decree of adjudication, may—
- (a) order the reduction of the decree; or
 - (b) make such order as it thinks appropriate to protect the occupancy rights of the non-entitled spouse,
- if it is satisfied that the purpose of the diligence was wholly or mainly to defeat the occupancy rights of the non-entitled spouse.
- (2) In this section, “entitled spouse” and “non-entitled spouse” have the same meanings respectively as in section 6(2) of this Act.

Modifications etc. (not altering text)

- C2 S. 12 applied with modifications by [Family Law \(Scotland\) Act 1985 \(c. 37, SIF 49:3\)](#), **s. 14(5)(b)**

Changes to legislation:

Matrimonial Homes (Family Protection) (Scotland) Act 1981, Cross Heading: Protection of rights of spouse against arrangements intended to defeat them is up to date with all changes known to be in force on or before 20 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 3(9) inserted by [2023 asp 3 s. 56\(4\)](#)
- s. 8(2C) inserted by [2023 asp 3 s. 56\(7\)](#)