



Conveyancing and Feudal Reform (Scotland) Act 1970

1970 CHAPTER 35

PART II

THE STANDARD SECURITY

[^{F1}23A Voluntary surrender of residential property following calling-up notice or notice of default

- (1) The conditions referred to in sections 20(2A)(a) and 23(4)(a)(i) are that—
 - (a) the security subjects are unoccupied; and
 - (b) each of the persons specified in subsection (2) below has, in writing—
 - (i) certified that that person does not occupy the security subjects and is not aware of the security subjects being occupied by any other person;
 - (ii) consented to the exercise by the creditor of the creditor's rights on default; and
 - (iii) certified that the consent is given freely and without coercion of any kind.
- (2) Those persons are—
 - (a) the debtor;
 - (b) the proprietor of the security subjects (where the proprietor is not the debtor);
 - (c) the non-entitled spouse of the debtor or the proprietor of security subjects which are (in whole or in part) a matrimonial home;
 - (d) the non-entitled civil partner of the debtor or the proprietor of security subjects which are (in whole or in part) a family home; and
 - (e) a person who has occupancy rights in the security subjects by virtue of an order under section 18(1) (occupancy rights of cohabiting couples) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981.
- (3) In this section—

Changes to legislation: *Conveyancing and Feudal Reform (Scotland) Act 1970, Section 23A is up to date with all changes known to be in force on or before 23 May 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*

“family home” has the meaning given by section 135(1) of the Civil Partnership Act 2004;

“matrimonial home” has the meaning given by section 22 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981;

“non-entitled civil partner” has the same meaning as “non-entitled partner” in section 101(1) of the Civil Partnership Act 2004;

“non-entitled spouse” has the meaning given by section 1 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981.]

Textual Amendments

- F1** S. 23A inserted (30.9.2010) by [Home Owner and Debtor Protection \(Scotland\) Act 2010 \(asp 6\)](#), **ss. 1(3)**, 17(3) (with s. 14); S.S.I. 2010/314, **art. 3** (subject to transitional and saving provisions in S.S.I. 2010/316, arts. 4-7)

Changes to legislation:

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[View outstanding changes](#)

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. 1(2)(b)(c) inserted by [2000 asp 5 Sch. 12 para. 30\(2\)\(a\)\(iv\)](#) (This amendment has not been applied to legislation.gov.uk. Sch. 12 para. 30(2) repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121))
- s. 1(7) added by [2000 asp 5 Sch. 12 para. 30\(2\)\(c\)](#) (This amendment has not been applied to legislation.gov.uk. Sch. 12 para. 30(2) repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121))
- s. 9(2A) inserted by [2000 asp 5 s. 32](#) (This amendment has not been applied to legislation.gov.uk. S. 32 repealed (4.4.2003) by 2003 asp 9, ss. 128, 129(5), Sch. 15 (with ss. 119, 121) and word "32" in s. 77(2)(a) omitted (22.10.2003) by virtue of S.S.I. 2003/503, art. 5)
- s. 13A amendment to earlier affecting provision 2007 asp 3 s. 85 by [2012 asp 5 sch. 5 para. 52\(2\)](#)
- s. 24(1E) inserted by [2014 asp 18 sch. 5 para. 22](#)