



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 2

REGISTER OF STATUTORY PLEDGES

PROSPECTIVE

Effective registration

91 Effective registration of statutory pledge

- (1) The registration of a statutory pledge is ineffective if—
- (a) the entry made up for the statutory pledge in the statutory pledges record—
 - (i) does not include a copy of the constitutive document, or
 - (ii) is, at the time of registration, seriously misleading as a result of an inaccuracy or inaccuracies in it, or
 - (b) the constitutive document is invalid.
- (2) But [subsection \(1\)\(a\)\(ii\)](#) is subject to [section 94\(1\)\(c\)](#) and [\(d\)](#).
- (3) Where the registration of a statutory pledge is ineffective by virtue of [subsection \(1\)](#), it becomes effective if and when the entry is corrected.

Commencement Information

- II** S. 91 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: Effective registration. (See end of Document for details)

92 Effective registration of amendment to statutory pledge

- (1) The registration of an amendment to a statutory pledge is ineffective if—
 - (a) the entry for the statutory pledge in the statutory pledges record—
 - (i) does not include a copy of the amendment document, or
 - (ii) is, in consequence of the amendment, seriously misleading as a result of an inaccuracy or inaccuracies in it, or
 - (b) the amendment document is invalid.
- (2) But [subsection \(1\)\(a\)\(ii\)](#) is subject to [section 94\(1\)\(c\)](#) and [\(d\)](#).
- (3) Where the registration of an amendment to a statutory pledge is ineffective by virtue of [subsection \(1\)](#), it becomes effective if and when the entry as amended is corrected.

Commencement Information

I2 S. 92 not in force at Royal Assent, see [s. 121\(2\)](#)

93 Supervening inaccuracies: protection of third parties

- (1) Subsection (5) applies where, at some time after a statutory pledge is registered effectively—
 - (a) a person acquires, for value, in good faith and exercising reasonable care—
 - (i) property which is encumbered under the pledge, or
 - (ii) a right in such property, and
 - (b) at the time the person acquires that property or right (“the acquired property”), any one of condition A, condition B or condition C is met.
- (2) Condition A is that the entry for the pledge in the statutory pledges record has been incorrectly removed from the statutory pledges record (whether or not on transfer of that entry to the archive record) and remains incorrectly absent from the record.
- (3) Condition B is that—
 - (a) the acquired property does not have an identifying number which, by virtue of RSP Rules, must be used in identifying it, and
 - (b) the entry for the pledge in the statutory pledges record is seriously misleading in respect of the acquired property.
- (4) Condition C is that—
 - (a) the acquired property has an identifying number which, by virtue of RSP Rules, must be used in identifying it, and
 - (b) if a search of the statutory pledges record were to be carried out for that number using the search facility provided under [section 104](#), it would not disclose the entry.
- (5) On the acquisition, the statutory pledge is extinguished in relation to the acquired property.
- (6) For the purposes of [subsection \(1\)\(a\)](#), the circumstances in which a person will not be taken to be in good faith and exercising reasonable care include where the person fails to carry out a search of the statutory pledges record in respect of the acquisition.

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: Effective registration. (See end of Document for details)

Commencement Information

I3 S. 93 not in force at Royal Assent, see [s. 121\(2\)](#)

94 Seriously misleading inaccuracies in the statutory pledges record

- (1) In determining for the purposes of sections [91\(1\)\(a\)\(ii\)](#), [92\(1\)\(a\)\(ii\)](#) and [93\(3\)](#) whether an entry in the statutory pledges record is seriously misleading as a result of an inaccuracy or inaccuracies in it—
- (a) the entry is seriously misleading where—
 - (i) any of subsections [\(2\)](#) to [\(6\)](#) apply, or
 - (ii) despite [sub-paragraph \(i\)](#) not being satisfied, the inaccuracy or inaccuracies are such that a reasonable person would be seriously misled by the entry,
 - (b) any inaccuracy is to be disregarded to the extent that it appears in the constitutive document, or in any amendment document, but is not replicated elsewhere in the entry,
 - (c) where the entry is seriously misleading in respect of only part of the encumbered property, that is not to be taken to affect the entry in its application to the rest of the property,
 - (d) where the entry is seriously misleading in respect of a co-provider or co-secured creditor but not in respect of both (or all) co-providers or co-secured creditors, that is not to be taken to affect the entry in its application to a co-provider or co-secured creditor in respect of whom the entry is not seriously misleading.
- (2) [This subsection](#) applies where—
- (a) the provider is a person required by RSP Rules to be identified in the statutory pledges record by an identifying number, and
 - (b) if a search of the record were to be carried out for that number, using the search facility provided under [section 104](#), it would not disclose the entry.
- (3) [This subsection](#) applies where—
- (a) the provider is not a person required by RSP Rules to be identified in the statutory pledges record by an identifying number, and
 - (b) if a search of the record were to be carried out, using the search facility provided under [section 104](#), for—
 - (i) the provider’s proper name, or
 - (ii) the provider’s proper name together with the provider’s month and year of birth,it would not disclose the entry.
- (4) [This subsection](#) applies—
- (a) for the purposes of [sections 91\(1\)\(a\)\(ii\)](#) and [92\(1\)\(a\)\(ii\)](#) only, and
 - (b) where the entry inaccurately reflects the secured creditor’s proper name at the date the application for registration was made in such a way that a reasonable person would be seriously misled.
- (5) [This subsection](#) applies where—

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: Effective registration. (See end of Document for details)

- (a) the encumbered property is or includes property required by RSP Rules to be identified in the statutory pledges record by an identifying number, and
 - (b) if a search of the record were to be carried out for that number, using the search facility provided under [section 104](#), it would not disclose the entry.
- (6) [This subsection](#) applies where—
- (a) there is a requirement, by virtue of [section 83\(1\)\(g\)](#), for an entry in the statutory pledges record to specify the type of property encumbered, and
 - (b) the entry—
 - (i) does not describe the property as being of a type that it is, or
 - (ii) fails to allocate a type to the property.
- (7) In the application of [this section](#) to co-providers and co-secured creditors—
- (a) subsections (2) and (3) apply in relation to a co-provider as they apply in relation to a provider,
 - (b) [subsection \(4\)](#) applies in relation to a co-secured creditor as it applies in relation to a secured creditor.
- (8) The Scottish Ministers may by regulations modify [this section](#) to make provision about what does, and what does not, make an entry seriously misleading for the purposes of sections [91\(1\)\(a\)\(ii\)](#), [92\(1\)\(a\)\(ii\)](#) and [93\(3\)](#) and how that is to be determined.
- (9) In [this section](#), the “proper name” of a provider or secured creditor means the person’s name in the form determined in accordance with RSP Rules.

Commencement Information

14 S. 94 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: Effective registration.