



Moveable Transactions (Scotland) Act 2023 2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 2

REGISTER OF STATUTORY PLEDGES

Requests for information

107 Secured creditor's duty to respond to request for information

- (1) An entitled person may ask the person identified in an entry in the statutory pledges record as the secured creditor (the “registered creditor”) to provide the entitled person with the following—
- (a) if the registered creditor is the secured creditor, with a written statement as to whether or not property specified by the entitled person is, or is part of, the encumbered property,
 - (b) if the registered creditor is no longer the secured creditor, with—
 - (i) information to that effect,
 - (ii) the name and address of the person to whom the registered creditor assigned the statutory pledge, and
 - (iii) where relevant and in so far as known, the names and addresses of subsequent assignees, or
 - (c) if the registered creditor has never been the secured creditor, with information to that effect.
- (2) The following are entitled persons for the purposes of [this section](#)—
- (a) a person who has a right in the property so specified,
 - (b) a person who has a right to execute diligence against the property so specified (or who is authorised to execute a charge for payment and will have the right to

Status: This is the original version (as it was originally enacted).

- execute diligence against that property if and when the days of charge expire without payment), and
- (c) a person who is not mentioned in [paragraph \(a\)](#) or [\(b\)](#) but who has the consent of the person identified in the entry as the provider to make a request under [subsection \(1\)](#).
- (3) The registered creditor must, within 21 days beginning with the day of receiving a request under [subsection \(1\)](#), comply with it unless—
- (a) it is manifest that the registration is ineffective in relation to the statutory pledge to which the request relates,
- (b) it is manifest from the entry for the statutory pledge that the property specified under [subsection \(1\)](#) by the entitled person is not encumbered by the pledge, or
- (c) both—
- (i) the registered creditor has, within the period of 3 months ending with the day of receipt of the request, complied with a request under [subsection \(1\)](#) from the same person and in relation to the same property, and
- (ii) the information contained in the statement issued in relation to the earlier request remains correct.
- (4) The registered creditor may recover from the entitled person any costs reasonably incurred in complying with the request.
- (5) On the application of the registered creditor, the court may by order—
- (a) exempt the registered creditor from complying with a request under [subsection \(1\)](#) or such part of the request as it specifies in the order, or
- (b) extend the period within which the registered creditor must comply with the request by such number of days as it specifies in the order,
- if satisfied that in all the circumstances it would be reasonable to do so.
- (6) If, on the application of the entitled person, the court is satisfied that the registered creditor has, without reasonable excuse, failed to comply with [subsection \(3\)](#), it may by order require the registered creditor to comply with the request within 14 days or such other period (which may be longer or shorter than 14 days) as the court considers appropriate.
- (7) [This section](#) applies in relation to any person whose name and address have been provided to an entitled person by virtue of [subsection \(1\)\(b\)](#) as it applies to the registered creditor.
- (8) The Scottish Ministers may by regulations modify [this section](#) so as to specify further persons, or descriptions of persons, who are entitled persons for the purposes of [this section](#).

108 Acquisition of property confirmed by creditor not to be encumbered property

- (1) Subsection [\(2\)](#) applies where a person who is an entitled person for the purposes of [section 107](#)—
- (a) makes a request under [subsection \(1\)](#) of that section,
- (b) receives a response from the person of whom the request was made, in the form of a statement of the type mentioned in [paragraph \(a\)](#) of that subsection, advising that the property specified under that subsection by the entitled person is neither the encumbered property nor part of that property, and

- (c) within 3 months beginning with the date of being so advised acquires in good faith—
 - (i) the property so specified (or any part of it), or
 - (ii) a right in that property (or part).
- (2) On that acquisition, the statutory pledge is extinguished in relation to the property (or part).