



# Moveable Transactions (Scotland) Act 2023

2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 2

##### REGISTER OF STATUTORY PLEDGES

###### *Entitlement to compensation*

PROSPECTIVE

#### **109 Liability of Keeper**

- (1) A person is entitled to be compensated by the Keeper for loss suffered in consequence of—
- (a) an inaccuracy in the statutory pledges record to the extent that it is attributable to the making up, maintenance or operation of the register (including an attempted correction of it),
  - (b) the issue, under [section 90\(1\)](#) or [97\(2\)](#), of a written statement which is incorrect,
  - (c) the service, under [section 102\(4\)](#), of a notification which is incorrect,
  - (d) a search result which—
    - (i) relates to a search of the statutory pledges record carried out by means of a search facility provided by the Keeper,
    - (ii) ought (as a result of the search terms used) to reflect accurately the contents of the statutory pledges record at the time the search was made, and
    - (iii) does not accurately reflect those contents,

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 109. (See end of Document for details)*

- (e) the issue, under [section 106](#), of an extract which is not a true extract,
  - (f) an application being accepted or rejected in error,
  - (g) an attempt to make an application, which the Keeper would otherwise have accepted, failing as a result of an error in the system the Keeper has for accepting applications, or
  - (h) applications being dealt with otherwise than in the order in which they are received.
- (2) But the Keeper has no liability under [subsection \(1\)](#)—
- (a) in so far as the person’s loss could have been avoided had the person taken measures which it would have been reasonable for the person to take,
  - (b) in so far as the person’s loss was not reasonably foreseeable, or
  - (c) for non-patrimonial loss.
- (3) For the avoidance of doubt, an inaccuracy in information included in an entry in the statutory pledges record when that entry is made up under [section 87\(1\)\(a\)](#), revised under [section 89\(1\)](#) or corrected by virtue of [section 97\(1\)](#), [99\(6\)\(b\)](#) or [\(8\)](#) or [100\(1\)\(a\)](#) or [\(3\)\(a\)](#) does not fall within [subsection \(1\)\(a\)](#) to the extent that the Keeper—
- (a) has been misled into making the inaccuracy, and
  - (b) reasonably believed the information to be accurate.
- (4) For the purposes of [subsection \(3\)](#), the circumstances where the Keeper is entitled to reasonably believe information to be accurate include those where it is provided—
- (a) in connection with an application to which the entry relates, or
  - (b) by the court.

#### Commencement Information

**II** S. 109 not in force at Royal Assent, see [s. 121\(2\)](#)

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**Changes to legislation:**

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