



Moveable Transactions (Scotland) Act 2023 2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1

PLEDGE

Statutory pledge

46 Competence of individual acting as provider of a statutory pledge

- (1) It is not competent for an individual to be the provider of a statutory pledge unless—
- (a) the individual is acting in the course of—
 - (i) the individual's business,
 - (ii) the activities of a charity of which the individual is a trustee, or
 - (iii) the activities of an unincorporated association (other than a charity) of which the individual is a member, and
 - (b) the encumbered property is a permitted asset, or consists only of permitted assets.
- (2) For the purpose of subsection (1)(b), an asset is a “permitted asset” if—
- (a) it is (as the case may be)—
 - (i) used, or to be used, wholly or mainly for the purposes of the individual's business,
 - (ii) an asset of the charity, or
 - (iii) owned by the individual on behalf of, or jointly with the other members of, the association, and

Status: This is the original version (as it was originally enacted).

- (b) in the case of corporeal property, it has a monetary value exceeding £3,000 immediately before the document under which it will become encumbered property is granted.
- (3) The Scottish Ministers may by regulations—
- (a) modify subsection (2)(b) so as to modify the amount for the time being specified there,
 - (b) modify this section so as to specify types of property which are or are not permitted assets.
- (4) For the purposes of this section—
- (a) “charity” means—
 - (i) a charity within the meaning of section 106 of the Charities and Trustee Investment (Scotland) Act 2005, or
 - (ii) an organisation managed or controlled wholly or mainly outwith Scotland and which is registered in a register equivalent to the Scottish Charity Register (kept under section 3 of that Act) for the purposes of the country in which it operates,
 - (b) a trustee of a charity is one of the persons having the general control and management of the administration of the charity.