



# Moveable Transactions (Scotland) Act 2023

2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

*Property encumbered by statutory pledge: effect of transfer by provider*

PROSPECTIVE

#### **51 Property encumbered by statutory pledge: transfer by provider**

- (1) If the provider of a statutory pledge transfers the encumbered property (or any part of it) to a third party, the transferred property remains encumbered by the pledge unless—
- (a) the consent mentioned in [subsection \(2\)](#) is obtained,
  - (b) the third party acquires the property unencumbered under any of sections [53](#) to [55](#), or
  - (c) the pledge is otherwise extinguished by the transfer, in whole or in relation to the transferred property, under section [52](#), [93](#) or [108](#).
- (2) The consent referred to in [subsection \(1\)\(a\)](#)—
- (a) is the prior written consent of the secured creditor—
    - (i) to the particular transfer, and
    - (ii) to the property in question being transferred unencumbered by the pledge, and
  - (b) does not include consent granted more than 14 days before the day of the particular transfer.

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*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 51. (See end of Document for details)*

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- (3) Whether to grant or withhold the consent mentioned in [subsection \(2\)](#) must remain at the discretion of the secured creditor (that is, the secured creditor may not agree in advance how that discretion will be exercised).
- (4) The Scottish Ministers may by regulations—
- (a) modify [subsection \(2\)](#) (including by specifying further descriptions of consent by reference to which [subsection \(1\)](#) is to apply),
  - (b) modify [this section](#) so as to specify further matters relevant to the granting or withholding of consent.

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#### **Commencement Information**

- II** S. 51 not in force at Royal Assent, see [s. 121\(2\)](#)

**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 51.