



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1

PLEDGE

Enforcement of pledge

PROSPECTIVE

- 67 Secured creditor's right to take possession of, or steps in relation to, corporeal property**
- (1) [This section](#) applies in relation to corporeal property in respect of which a secured creditor in a statutory pledge has served a pledge enforcement notice.
- (2) Subject to any court order that is required under [section 66](#), the secured creditor is entitled to—
- (a) take possession of the property, and
 - (b) take any reasonable steps necessary to ensure, whether or not by immobilising the property, that it is not disposed of or used in an unauthorised way, but only in accordance with [subsection \(3\)](#) or, as the case may be, [subsection \(4\)](#).
- (3) Where the property is in the possession of a relevant person, the secured creditor may take possession or steps under [subsection \(2\)](#)—
- (a) with the consent of the relevant person,
 - (b) with the consent of the court, through the agency of an authorised person, or
 - (c) personally, if authorised to do so by the court.

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 67. (See end of Document for details)

- (4) Where the property is not in the possession of a relevant person, the secured creditor may take possession or steps under [subsection \(2\)](#)—
- (a) with the consent of—
 - (i) the provider, given after the pledge becomes enforceable, and
 - (ii) any third party who for the time being either is in direct possession, or has custody, of the property,
 - (b) through the agency of an authorised person, or
 - (c) personally, if authorised to do so by the court.
- (5) For the purposes of [subsections \(3\)](#) and [\(4\)](#), a “relevant person” is a person who, in respect of the property or of any part of it—
- (a) has a right in security which has priority in ranking over, or ranks equally with, the pledge to which the pledge enforcement notice relates, or
 - (b) has executed diligence which has priority in ranking over, or ranks equally with, that pledge.
- (6) In taking possession of the property under [subsection \(2\)\(a\)](#), the secured creditor is entitled to remove any individual from that property, but only through the agency of an authorised person.
- (7) In [this section](#), “authorised person” means a messenger-at-arms or sheriff officer.
- (8) The Scottish Ministers may by regulations modify [this section](#) so as to specify further persons, or descriptions of persons, who are authorised persons for the purposes of [this section](#).

Commencement Information

II S. 67 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 67.