



# Moveable Transactions (Scotland) Act 2023

2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

PROSPECTIVE

*Assignment, amendment, restriction or extinction of statutory pledge*

#### 57 Assignment of statutory pledge

- (1) Except in so far as the provider and the secured creditor agree otherwise, a statutory pledge may be assigned.
- (2) A statutory pledge is assigned only by the secured creditor executing or authenticating a document assigning the pledge.
- (3) Subject to the provisions of that document, the assignment conveys to the assignee entitlement to the benefit of any notice served, or enforcement procedure commenced, by the assignor in respect of the statutory pledge before the assignment (to the effect that the assignee may proceed as if the assignee served that notice or commenced those procedures).

#### Commencement Information

- II** S. 57 not in force at Royal Assent, see [s. 121\(2\)](#)

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Cross Heading: Assignation, amendment, restriction or extinction of statutory pledge. (See end of Document for details)*

## 58 Amendment of statutory pledge

- (1) Subject to [section 59\(a\)](#), a statutory pledge may be amended only by means of a document (an “amendment document”) executed or authenticated by the secured creditor and the provider.
- (2) But an amendment document which relates only to the addition of property to the encumbered property need not be executed or authenticated by the secured creditor.
- (3) An amendment document which relates to the addition of property to the encumbered property must identify the property to be added.
- (4) If the property to be added consists of more than one item, the amendment document must—
  - (a) identify each item separately, or
  - (b) identify the items in terms of their constituting an identifiable class.
- (5) The property identified (whether separately or as a class) as the property which is to be the added property may be either property of, or property to be acquired by, the provider.
- (6) Where an amendment increases the extent of the statutory pledge—
  - (a) the statutory pledge is amended to give effect to the increase only when the amendment is registered effectively (see [section 92](#)), and
  - (b) subject to any agreement to the contrary by the parties to the amendment document, any other amendments to the statutory pledge made by the amendment document also take effect at the time mentioned in paragraph (a).
- (7) For the purposes of subsection (6), an amendment increases the extent of the statutory pledge where—
  - (a) the amendment adds property to the encumbered property, or
  - (b) both—
    - (i) the extent of the secured obligation is determinable from the terms alone of the entry for it in the statutory pledges record, and
    - (ii) the amendment increases that extent.
- (8) For the purposes of subsections (3) and (4), the ways in which property added can be identified in the amendment document include by making reference in the amendment document to another document, the terms of which are not reproduced.

### Commencement Information

**I2** S. 58 not in force at Royal Assent, see [s. 121\(2\)](#)

## 59 Restriction or discharge of statutory pledge

A statutory pledge may be—

- (a) restricted to only part of the encumbered property, or
  - (b) discharged,
- by means of a written statement by the secured creditor.

**Status:** This version of this cross heading contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023,

Cross Heading: Assignation, amendment, restriction or extinction of statutory pledge. (See end of Document for details)

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### Commencement Information

**I3** S. 59 not in force at Royal Assent, see [s. 121\(2\)](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Cross Heading: Assignment, amendment, restriction or extinction of statutory pledge.