



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1

PLEDGE

PROSPECTIVE

Ranking of pledges etc.

60 Ranking

- (1) Subject to the provisions of [this section](#) and of any other enactment, the priority in ranking of—
 - (a) any two pledges, or
 - (b) a pledge and a right in security other than a pledge,is determined according to their creation, the earlier created having priority over the later.
- (2) Where a provider grants two or more statutory pledges over property which is not the property of the provider at the time the pledges are granted, the priority in ranking of the pledges is determined according to the dates on which and times at which they are registered effectively (see sections 91 and 92), the earlier having priority over the later.
- (3) Where property is subject both to a pledge and to a security arising by operation of law, the security arising by operation of law has priority over the pledge.
- (4) The priority in ranking of a pledge is the same irrespective of whether the secured obligation is an obligation owed or is an obligation which will or may become owed.

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: Ranking of pledges etc.. (See end of Document for details)

- (5) As between any two pledges, or as between a pledge and a right in security other than a pledge, the secured creditors or (as the case may be) the secured creditor and the holder of that other right may set out in a written agreement—
- (a) that there is no priority in ranking, or
 - (b) that any priority in ranking is to be determined in a way other than would be the case in the absence of such an agreement.
- (6) An agreement under [subsection \(5\)](#)—
- (a) has effect only as between the parties to it and their successors, and
 - (b) is not registrable in the register.

Commencement Information

11 S. 60 not in force at Royal Assent, see [s. 121\(2\)](#)

61 Amendment of Companies Act 1985 and Insolvency Act 1986

Both in section 486(1) of the Companies Act 1985 and in section 70(1) of the Insolvency Act 1986, in the definition of “fixed security”—

- (a) the words from “a heritable security” to “1970” become paragraph (a) of the definition, and
- (b) after that paragraph insert “; or
 - (b) a statutory pledge within the meaning given by [section 113\(1\)](#) of the Moveable Transactions (Scotland) Act 2023;”.

Commencement Information

12 S. 61 not in force at Royal Assent, see [s. 121\(2\)](#)

62 Effect of diligence on pledge

- (1) [Subsection \(2\)](#) applies where diligence is executed in respect of property which is, or any part of which is, encumbered by a pledge.
- (2) The pledge has, in respect of the property or (as the case may be) the part, priority in ranking over the diligence except in relation to any part of the secured obligation which consists of a sum—
 - (a) advanced after execution of the diligence, and
 - (b) not required to be advanced by—
 - (i) a contractual agreement entered into before execution of the diligence, or
 - (ii) an undertaking entered into before execution of the diligence.
- (3) [Subsection \(4\)](#) applies where a pledge is created over property in respect of which, or in respect of part of which, diligence has been executed.
- (4) The diligence has, in respect of the property or (as the case may be) the part, priority in ranking over the pledge.

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Commencement Information

I3 S. 62 not in force at Royal Assent, see [s. 121\(2\)](#)

Status:

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Changes to legislation:

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