



# Moveable Transactions (Scotland) Act 2023 2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 2

##### REGISTER OF STATUTORY PLEDGES

PROSPECTIVE

#### *Corrections*

#### **96 Application by secured creditor for correction of statutory pledges record**

- (1) A relevant person may apply to the Keeper for an entry in the statutory pledges record to be corrected.
- (2) The Keeper must accept the application if—
  - (a) it conforms to such RSP Rules as relate to the application, and
  - (b) either—
    - (i) such fee as is payable for the correction is paid, or
    - (ii) arrangements satisfactory to the Keeper are made for payment of that fee.
- (3) If the requirements of [subsection \(2\)](#) are not satisfied, the Keeper must reject the application and inform the applicant accordingly.
- (4) For the purposes of [subsection \(1\)](#), “relevant person”—
  - (a) means the person who is the secured creditor in relation to the entry (whether or not identified as such in the entry), and

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- (b) where the statutory pledge has been assigned, also includes the person who was the secured creditor before the assignment.

**Commencement Information**

**I1** S. 96 not in force at Royal Assent, see [s. 121\(2\)](#)

**97 Correction of record in response to application under [section 96](#)**

- (1) On accepting an application made under [section 96](#), the Keeper must correct the entry in the statutory pledges record accordingly.
- (2) After the correction of an entry under [subsection \(1\)](#), the Keeper must issue a written statement verifying the correction to—
- (a) the applicant, and
  - (b) the provider,
- but only if and to the extent that the application contains an email address for those persons.
- (3) That statement must—
- (a) include—
    - (i) the date and time of the correction, and
    - (ii) the registration number allocated to the entry to which the correction relates, and
  - (b) conform to such RSP Rules as relate to the statement.
- (4) Where a statement is issued under [subsection \(2\)](#) and is received by the applicant but not the provider, the provider may request a copy of it from the applicant.
- (5) Within 21 days beginning with the day a request is made under [subsection \(4\)](#), the applicant must supply the provider with the copy requested.

**Commencement Information**

**I2** S. 97 not in force at Royal Assent, see [s. 121\(2\)](#)

**98 Demand that application for correction be made under [section 96](#)**

- (1) A person may, where the conditions in [subsection \(2\)](#) or [\(3\)](#) are met, issue a demand to the person identified in an entry in the statutory pledges record as the secured creditor (the “registered creditor”) that the registered creditor apply to the Keeper under [section 96](#) for the entry to be corrected.
- (2) The conditions in [this subsection](#) are that the person—
- (a) is identified as the provider, or as a co-provider, of the statutory pledge in the entry, and
  - (b) either—
    - (i) claims not to be either the provider, or a co-provider, of the statutory pledge, or

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- (ii) considers that all or part of the property identified as the encumbered property in the entry is not encumbered property.
- (3) The conditions in [this subsection](#) are that the person—
  - (a) has a right in property identified as the encumbered property in the entry, and
  - (b) considers that all or part of the property is not encumbered property.
- (4) A demand issued under [subsection \(1\)](#) must—
  - (a) be in a prescribed form, and
  - (b) specify a period (being a period of not less than 21 days after it is received) within which compliance with it is sought.
- (5) A registered creditor may not charge a fee for compliance with a demand under [subsection \(1\)](#).
- (6) If the registered creditor fails to comply with the demand within the period specified by virtue of [subsection \(4\)\(b\)](#), the person who made the demand may apply to the Keeper for the statutory pledges record to be corrected.

#### Commencement Information

I3 S. 98 not in force at Royal Assent, see [s. 121\(2\)](#)

### 99 Response to application for correction under [section 98\(6\)](#)

- (1) The Keeper must accept an application made under [section 98\(6\)](#) if—
  - (a) it conforms to such RSP Rules as relate to the application, and
  - (b) either—
    - (i) such fee as is payable for the application is paid, or
    - (ii) arrangements satisfactory to the Keeper are made for payment of that fee.
- (2) If the requirements of [subsection \(1\)](#) are not satisfied, the Keeper must reject the application and inform the applicant accordingly.
- (3) On accepting an application made under [section 98\(6\)](#), the Keeper must—
  - (a) serve a notice on the registered creditor stating that the Keeper intends to correct the statutory pledges record on a date specified in the notice (being a date no fewer than 21 days after the date of the notice),
  - (b) note on the entry to which the application relates that the application has been received and include in that note—
    - (i) the details of the correction sought, and
    - (ii) the date on which the application was received,
  - (c) issue a written statement to the applicant verifying that the application has been received, and
  - (d) notify the person identified in the entry as the provider (if a different person from the applicant) that the notice mentioned in [paragraph \(a\)](#) has been served on the registered creditor.
- (4) The registered creditor—

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- (a) may, before the date specified under [subsection \(3\)\(a\)](#), apply to the court opposing the making of the correction, and
  - (b) on making any such application, must notify the Keeper accordingly.
- (5) Where the registered creditor is not the secured creditor in relation to the statutory pledge in the entry—
- (a) the registered creditor must, in so far as it is reasonable and practicable to do so, promptly notify the secured creditor of the notice received under [subsection \(3\)\(a\)](#), and
  - (b) [subsection \(4\)](#) applies to the secured creditor as it applies to the registered creditor.
- (6) On an application under [subsection \(4\)\(a\)](#), the court may—
- (a) if satisfied that the correction is not justified, direct that no change be made to the record in consequence of the application under [section 98\(6\)](#), or
  - (b) if satisfied that the correction is justified in whole or in part, direct that the record be corrected accordingly.
- (7) But the court is not to make a direction under [subsection \(6\)](#) unless satisfied that, before the date specified by virtue of [subsection \(3\)\(a\)](#), the Keeper received notification under [subsection \(4\)\(b\)](#) of the application to the court.
- (8) If the Keeper does not receive, before the date specified by virtue of [subsection \(3\)\(a\)](#), notification under [subsection \(4\)\(b\)](#) of an application to the court, the Keeper is on that date to make the correction.
- (9) In [this section](#), “registered creditor” has the same meaning as in [section 98](#).

#### Commencement Information

**I4** S. 99 not in force at Royal Assent, see [s. 121\(2\)](#)

### **100 Correction of the statutory pledges record at instance of the court or the Keeper**

- (1) Where a court determines in any proceedings that the statutory pledges record is inaccurate, the court—
- (a) must direct the Keeper to correct the record, and
  - (b) may give the Keeper any further direction it considers necessary in connection with the correction.
- (2) [Subsection \(3\)](#) applies where the Keeper becomes aware of a manifest inaccuracy in the statutory pledges record other than—
- (a) as a result of a direction under [subsection \(1\)](#),
  - (b) where an application has been made under [section 96\(1\)](#) or [98\(6\)](#) in respect of the inaccuracy, or
  - (c) where the Keeper considers that—
    - (i) such an application could reasonably be made in respect of the inaccuracy, and
    - (ii) the inaccuracy is not attributable to the Keeper.
- (3) The Keeper must—

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- (a) correct the record if what is needed to correct it is manifest,
- (b) if what is needed to correct it is not manifest, note the inaccuracy on the entry in question.

#### Commencement Information

**I5** S. 100 not in force at Royal Assent, see [s. 121\(2\)](#)

### 101 Meaning of “inaccuracy” and how a correction is made

- (1) There is an “inaccuracy” in the statutory pledges record where the record misstates what the position is, in law or in fact, in relation to a statutory pledge.
- (2) A correction of the statutory pledges record—
  - (a) may relate to an inaccuracy—
    - (i) which has existed since an entry in the record was made up, or
    - (ii) which has arisen due to circumstances that have occurred since the submission of the application in respect of which the entry was made up, and
  - (b) may involve—
    - (i) the removal of an entry,
    - (ii) the removal of information included in an entry,
    - (iii) the amendment of, or an addition to, the information, or replacement of a copy document, included in an entry,
    - (iv) the restoration of information, or of a copy document, to an entry,
    - (v) the restoration of an entry (whether or not by transferring it from the archive record to the statutory pledges record).
- (3) A correction is taken to be made on the date and at the time entered for it in the register in pursuance of a provision of [this Part](#).

#### Commencement Information

**I6** S. 101 not in force at Royal Assent, see [s. 121\(2\)](#)

### 102 Correction of the statutory pledges record: procedure

- (1) [This section](#) applies where the Keeper corrects the statutory pledges record by virtue of section [97\(1\)](#), [99\(6\)\(b\)](#) or [\(8\)](#) or [100\(1\)\(a\)](#) or [\(3\)\(a\)](#).
- (2) Where the Keeper corrects the statutory pledges record by removing an entry from the statutory pledges record, the Keeper must—
  - (a) transfer the entry to the archive record,
  - (b) note on the transferred entry—
    - (i) the section by virtue of which the transfer is made, and
    - (ii) the details of the correction (including the date and time of the removal), and
  - (c) include in the archive record a copy of any document which discloses, or contributes to disclosing, the inaccuracy which is the subject of the correction.

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- (3) Where the Keeper corrects the record by restoring an entry, by restoring, removing or amending information included in an entry or by restoring or replacing a copy document, the Keeper must—
- (a) note on the entry that it has been corrected and the details of the correction (including the date and time of the correction),
  - (b) include in the archive record a copy of any document which discloses, or contributes to disclosing, the inaccuracy which is the subject of the correction, and
  - (c) in the case of the replacement of the copy document, transfer the replaced copy to the archive record.
- (4) Having corrected the record other than by virtue of section 97(1), the Keeper must notify the following persons (in so far as it is reasonable and practicable to do so) that the correction has been made—
- (a) every person specified for the purposes of [this subsection](#) by RSP Rules, and
  - (b) any other person who appears to the Keeper to be affected by it materially.
- (5) A failure to comply with [subsection \(2\)\(c\)](#), [\(3\)\(b\)](#) or [\(4\)](#) does not affect the validity of the correction of the record.

#### Commencement Information

**I7** S. 102 not in force at Royal Assent, see [s. 121\(2\)](#)

### 103 Proceedings involving the accuracy of the statutory pledges record

The Keeper is entitled to appear and be heard in any civil proceedings, whether before a court or tribunal, in which—

- (a) the accuracy of the statutory pledges record, or
  - (b) what is needed to correct an inaccuracy in the record,
- is put in question.

#### Commencement Information

**I8** S. 103 not in force at Royal Assent, see [s. 121\(2\)](#)

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