



# Moveable Transactions (Scotland) Act 2023

2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

###### *Statutory pledge*

PROSPECTIVE

#### **46 Competence of individual acting as provider of a statutory pledge**

- (1) It is not competent for an individual to be the provider of a statutory pledge unless—
- (a) the individual is acting in the course of—
    - (i) the individual's business,
    - (ii) the activities of a charity of which the individual is a trustee, or
    - (iii) the activities of an unincorporated association (other than a charity) of which the individual is a member, and
  - (b) the encumbered property is a permitted asset, or consists only of permitted assets.
- (2) For the purpose of subsection (1)(b), an asset is a “permitted asset” if—
- (a) it is (as the case may be)—
    - (i) used, or to be used, wholly or mainly for the purposes of the individual's business,
    - (ii) an asset of the charity, or
    - (iii) owned by the individual on behalf of, or jointly with the other members of, the association, and

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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 46. (See end of Document for details)*

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- (b) in the case of corporeal property, it has a monetary value exceeding £3,000 immediately before the document under which it will become encumbered property is granted.
- (3) The Scottish Ministers may by regulations—
- (a) modify subsection (2)(b) so as to modify the amount for the time being specified there,
  - (b) modify this section so as to specify types of property which are or are not permitted assets.
- (4) For the purposes of this section—
- (a) “charity” means—
    - (i) a charity within the meaning of section 106 of the Charities and Trustee Investment (Scotland) Act 2005, or
    - (ii) an organisation managed or controlled wholly or mainly outwith Scotland and which is registered in a register equivalent to the Scottish Charity Register (kept under section 3 of that Act) for the purposes of the country in which it operates,
  - (b) a trustee of a charity is one of the persons having the general control and management of the administration of the charity.

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**Commencement Information**

**II** S. 46 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 46.