



# Moveable Transactions (Scotland) Act 2023 2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

##### *Statutory pledge*

PROSPECTIVE

#### **50** Creation of statutory pledge: insolvency

- (1) [This section](#) applies where—
- (a) the property identified (whether separately or as a class) as the property which is to be the encumbered property under a statutory pledge is or includes property to be acquired by the provider, and
  - (b) after the pledge is granted, the provider becomes insolvent.
- (2) The statutory pledge is not created over any property which, though identified by the constitutive document or by an amendment document as property to be encumbered, is acquired by the provider after becoming insolvent.
- (3) For the purposes of [subsection \(2\)](#)—
- (a) a provider who is an individual, or the estate of which may be sequestrated by virtue of section 6 of the Bankruptcy (Scotland) Act 2016, becomes insolvent when—
    - (i) the provider's estate is sequestrated,
    - (ii) the provider grants a trust deed for creditors or makes a composition or arrangement with creditors,

*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 50. (See end of Document for details)*

- (iii) the provider is adjudged bankrupt,
  - (iv) a voluntary arrangement proposed by the provider is approved,
  - (v) the provider’s application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002, or
  - (vi) the provider becomes subject to any other order or arrangement analogous to any of those mentioned in sub-paragraphs (i) to (v) anywhere in the world, and
- (b) a provider other than is mentioned in [paragraph \(a\)](#) becomes insolvent when—
- (i) a decision approving a voluntary arrangement entered into by the provider has effect under section 4A of the Insolvency Act 1986 (“the 1986 Act”),
  - (ii) the provider is wound up under Part 4 or 5 of the 1986 Act or under section 367 of the Financial Services and Markets Act 2000,
  - (iii) an administrative receiver, as defined in section 251 of the 1986 Act, is appointed over all or part (being a part to which the constitutive document or any amendment document relates) of the property of the provider,
  - (iv) the provider enters administration (“enters administration” being construed in accordance with paragraph 1(2) of schedule B1 of the 1986 Act),
  - (v) an order under section 901F of the Companies Act 2006 sanctioning a compromise or arrangement entered into by the provider comes into effect over all or part of the property of the provider, or
  - (vi) the provider becomes subject to any other order, appointment or arrangement analogous to any of those mentioned in sub-paragraphs (i) to (v) anywhere in the world.
- (4) The Scottish Ministers may by regulations modify [subsection \(3\)](#).

#### Commencement Information

**II** S. 50 not in force at Royal Assent, see [s. 121\(2\)](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 50.