



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1

PLEDGE

Enforcement of pledge

PROSPECTIVE

75 Appropriation without prior agreement

- (1) [This section](#) applies in respect of property in relation to which the provider and the secured creditor have not reached agreement under [section 74\(1\)](#).
- (2) Property may only be appropriated by virtue of [section 73\(1\)](#) if the amount obtained by the appropriation bears a reasonable relationship to the market value of the property appropriated on the date of the appropriation.
- (3) Before exercising a right to appropriate property by virtue of [section 73\(1\)](#), the secured creditor must serve a notice on—
 - (a) the provider,
 - (b) the debtor in the secured obligation (if a person other than the provider),
 - (c) the holder of any other right in security over all or part of the property, and
 - (d) any creditor who has executed diligence against all or part of the property.
- (4) But—

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 75. (See end of Document for details)

- (a) [paragraph \(c\)](#) of [subsection \(3\)](#) is to be disregarded if the secured creditor does not know, and cannot reasonably be expected to know, of the right in security mentioned in that paragraph, and
 - (b) [paragraph \(d\)](#) of that subsection is to be disregarded if the secured creditor does not know, and cannot reasonably be expected to know, of the diligence executed as mentioned in that paragraph.
- (5) Any notice served under [subsection \(3\)](#) must—
- (a) identify the property to be appropriated,
 - (b) specify the amount for the time being remaining due under the secured obligation,
 - (c) specify the amount expected to be obtained by the appropriation, and
 - (d) state that—
 - (i) the recipient may give a written statement to the secured creditor objecting to the appropriation, and
 - (ii) if such a statement is received by the secured creditor within 14 days beginning with the day that the person objecting received the notice, the appropriation is not to proceed.
- (6) If, within the period specified in [sub-paragraph \(ii\)](#) of [subsection \(5\)\(d\)](#), the secured creditor receives a written statement as mentioned in that subsection from a recipient of a notice—
- (a) the appropriation is not to proceed, and
 - (b) the secured creditor must, by written statement and without delay, inform each of the other recipients of the notice that the appropriation is not proceeding.
- (7) The Scottish Ministers may by regulations modify [this section](#) so as to—
- (a) specify—
 - (i) further persons, or descriptions of persons, on whom the secured creditor must serve a notice (being persons who have statutory duties in relation to the provider’s estate),
 - (ii) cases when the requirement to serve a notice on a person specified by virtue of [sub-paragraph \(i\)](#) is to be disregarded,
 - (b) require a notice under [subsection \(3\)](#) to be in, or as nearly as may be in, such form as is for the time being prescribed (and may in consequence remove any requirements in [this section](#) as to what such a notice must contain).

Commencement Information

II S. 75 not in force at Royal Assent, see [s. 121\(2\)](#)

Status:

This version of this provision is prospective.

Changes to legislation:

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