



# Moveable Transactions (Scotland) Act 2023

2023 asp 3

## PART 2

### SECURITY OVER MOVEABLE PROPERTY

#### CHAPTER 1

##### PLEDGE

*Pledge, secured obligation and encumbered property*

#### **43 Secured obligation and encumbered property**

- (1) The obligation secured by a pledge (“the secured obligation”)—
  - (a) may be any obligation owed, or which will or may become owed, to or by any person, and
  - (b) includes ancillary obligations owed (for example, to pay interest, damages and the reasonable expense of extra-judicial recovery of interest or damages).
- (2) The property over which a pledge is created and in respect of which the pledge subsists (“the encumbered property”) includes, except in so far as the provider and the secured creditor agree otherwise, the natural fruits of the property but not its incorporeal fruits.
- (3) At the time the pledge is created, the property which is to be the encumbered property must be transferable (whether or not its transferability is restricted in some way).