



Moveable Transactions (Scotland) Act 2023 2023 asp 3

PART 2

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 1

PLEDGE

Property encumbered by statutory pledge: effect of transfer by provider

51 Property encumbered by statutory pledge: transfer by provider

- (1) If the provider of a statutory pledge transfers the encumbered property (or any part of it) to a third party, the transferred property remains encumbered by the pledge unless—
 - (a) the consent mentioned in [subsection \(2\)](#) is obtained,
 - (b) the third party acquires the property unencumbered under any of sections [53](#) to [55](#), or
 - (c) the pledge is otherwise extinguished by the transfer, in whole or in relation to the transferred property, under section [52](#), [93](#) or [108](#).
- (2) The consent referred to in [subsection \(1\)\(a\)](#)—
 - (a) is the prior written consent of the secured creditor—
 - (i) to the particular transfer, and
 - (ii) to the property in question being transferred unencumbered by the pledge, and
 - (b) does not include consent granted more than 14 days before the day of the particular transfer.
- (3) Whether to grant or withhold the consent mentioned in [subsection \(2\)](#) must remain at the discretion of the secured creditor (that is, the secured creditor may not agree in advance how that discretion will be exercised).

Status: This is the original version (as it was originally enacted).

- (4) The Scottish Ministers may by regulations—
- (a) modify [subsection \(2\)](#) (including by specifying further descriptions of consent by reference to which [subsection \(1\)](#) is to apply),
 - (b) modify [this section](#) so as to specify further matters relevant to the granting or withholding of consent.