



Moveable Transactions (Scotland) Act 2023 2023 asp 3

PART 2 **S**

SECURITY OVER MOVEABLE PROPERTY

CHAPTER 2 **S**

REGISTER OF STATUTORY PLEDGES

Effective registration

PROSPECTIVE

94 **Seriously misleading inaccuracies in the statutory pledges record** **S**

- (1) In determining for the purposes of sections 91(1)(a)(ii), 92(1)(a)(ii) and 93(3) whether an entry in the statutory pledges record is seriously misleading as a result of an inaccuracy or inaccuracies in it—
- (a) the entry is seriously misleading where—
 - (i) any of subsections (2) to (6) apply, or
 - (ii) despite sub-paragraph (i) not being satisfied, the inaccuracy or inaccuracies are such that a reasonable person would be seriously misled by the entry,
 - (b) any inaccuracy is to be disregarded to the extent that it appears in the constitutive document, or in any amendment document, but is not replicated elsewhere in the entry,
 - (c) where the entry is seriously misleading in respect of only part of the encumbered property, that is not to be taken to affect the entry in its application to the rest of the property,
 - (d) where the entry is seriously misleading in respect of a co-provider or co-secured creditor but not in respect of both (or all) co-providers or co-secured

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 94. (See end of Document for details)

creditors, that is not to be taken to affect the entry in its application to a co-provider or co-secured creditor in respect of whom the entry is not seriously misleading.

- (2) **This subsection** applies where—
 - (a) the provider is a person required by RSP Rules to be identified in the statutory pledges record by an identifying number, and
 - (b) if a search of the record were to be carried out for that number, using the search facility provided under [section 104](#), it would not disclose the entry.
- (3) **This subsection** applies where—
 - (a) the provider is not a person required by RSP Rules to be identified in the statutory pledges record by an identifying number, and
 - (b) if a search of the record were to be carried out, using the search facility provided under [section 104](#), for—
 - (i) the provider’s proper name, or
 - (ii) the provider’s proper name together with the provider’s month and year of birth,
 it would not disclose the entry.
- (4) **This subsection** applies—
 - (a) for the purposes of [sections 91\(1\)\(a\)\(ii\)](#) and [92\(1\)\(a\)\(ii\)](#) only, and
 - (b) where the entry inaccurately reflects the secured creditor’s proper name at the date the application for registration was made in such a way that a reasonable person would be seriously misled.
- (5) **This subsection** applies where—
 - (a) the encumbered property is or includes property required by RSP Rules to be identified in the statutory pledges record by an identifying number, and
 - (b) if a search of the record were to be carried out for that number, using the search facility provided under [section 104](#), it would not disclose the entry.
- (6) **This subsection** applies where—
 - (a) there is a requirement, by virtue of [section 83\(1\)\(g\)](#), for an entry in the statutory pledges record to specify the type of property encumbered, and
 - (b) the entry—
 - (i) does not describe the property as being of a type that it is, or
 - (ii) fails to allocate a type to the property.
- (7) In the application of **this section** to co-providers and co-secured creditors—
 - (a) subsections (2) and (3) apply in relation to a co-provider as they apply in relation to a provider,
 - (b) [subsection \(4\)](#) applies in relation to a co-secured creditor as it applies in relation to a secured creditor.
- (8) The Scottish Ministers may by regulations modify **this section** to make provision about what does, and what does not, make an entry seriously misleading for the purposes of [sections 91\(1\)\(a\)\(ii\)](#), [92\(1\)\(a\)\(ii\)](#) and [93\(3\)](#) and how that is to be determined.
- (9) In **this section**, the “proper name” of a provider or secured creditor means the person’s name in the form determined in accordance with RSP Rules.

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Commencement Information

II S. 94 not in force at Royal Assent, see [s. 121\(2\)](#)

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Changes to legislation:

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