SCOTTISH STATUTORY INSTRUMENTS

2024 No. 381

MOVEABLE TRANSACTIONS

REGISTERS AND RECORDS

The Moveable Transactions (Register of Assignations and Register of Statutory Pledges Rules) (Scotland) Regulations 2024

Made - - - -	*12th December 2024*
Laid before the Scottish Parliament	*16th December 2024*
Coming into force - -	*1st April 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 39(1), 111(1) and 118(1) of the Moveable Transactions (Scotland) Act 2023(**a**) and all other powers enabling them to do so.

In accordance with sections 39(3) and 111(3) of that Act(**b**), they have consulted the Keeper of the Registers of Scotland.

Citation and commencement

1. These Regulations may be cited as the Moveable Transactions (Register of Assignations and Register of Statutory Pledges Rules) (Scotland) Regulations 2024 and come into force on 1 April 2025.

Register of Assignations and Register of Statutory Pledges Rules

2. The rules set out in the schedule have effect.

IVAN MCKEE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
12th December 2024

(**a**) 2023 asp 3 (the "Act").
(**b**) Sections 39(3) and 111(3) of the Act refer in error to consultation before laying a draft of the instrument containing these Regulations, instead of before making the Regulations which are subject to the negative procedure (see section 118(2) and (4) of the Act). The Keeper was consulted before these Regulations were made.

SCHEDULE

Regulation 2

Register of Assignations and Register of Statutory Pledges Rules

PART 1

Overview and Interpretation

Overview

1.—(1) This schedule is structured in accordance with paragraphs (2) to (4).

(2) Part 2 of this schedule contains rules common to both the Register of Assignations and the Register of Statutory Pledges (the "Common Rules").

(3) Part 3 of this schedule contains the Register of Assignations Rules (the "RoA Rules").

(4) Part 4 of this schedule contains the Register of Statutory Pledges Rules (the "RSP Rules").

Interpretation

2. In this schedule (unless the context otherwise requires)—

"the Act" means the Moveable Transactions (Scotland) Act 2023,

"assignations record" is to be construed in accordance with section 21(2) of the Act,

"constitutive document of the statutory pledge" is to be construed in accordance with section 45 of the Act,

"individual" means—

(a) in the RoA Rules, a natural person not acting, for the purpose of the RoA Rules, in another legal capacity (such as partner, executor, trustee, guardian or attorney in respect of another person),

(b) in the RSP Rules—

(i) if they are a provider of a statutory pledge, a natural person who—

(aa) is competent to provide such a pledge under section 46(1) of the Act, or

(bb) is granting such a pledge over a financial instrument, within the meaning given by regulation 3(1) of the Financial Collateral Arrangements (No. 2) Regulations 2003(**a**),

(ii) if they are a secured creditor, a natural person not acting, for the purpose of the RSP Rules, in another legal capacity (such as partner, executor, trustee, guardian or attorney in respect of another person),

"legally valid" includes where a document has been authenticated or has been executed (see section 120(2) of the Act),

"online registration system" means the online service provided by means of the automated computer system under section 114 of the Act by which the Keeper carries out their duties under Chapter 2 of Part 1 and Chapter 2 of Part 2 of the Act,

"RoA" means the Register of Assignations,

"RSP" means the Register of Statutory Pledges, and

"unique identification number"—

(**a**) S.I. 2003/3226 to which there are no amendments relevant to the Moveable Transactions (Register of Assignations and Register of Statutory Pledges Rules) (Scotland) Regulations 2024. S.I. 2003/3226 will be revoked by section 1(1) and paragraph 1 of schedule 1(2) of the Financial Services and Markets Act 2023 (c. 29) on a date to be appointed.

(a) in the RoA Rules is to be construed in accordance with rule 16,

(b) in the RSP Rules is to be construed in accordance with rule 31.

PART 2

Common Rules

Presumption in favour of digital registration

3.—(1) An application for registration of an assignation document, a statutory pledge or amendment under section 23(1), 86(1) or 88(1) of the Act respectively must be made using the electronic form specified on the online registration system, unless—

(a) that system notifies the applicant who attempts to use it that it is unavailable for a period of 48 hours or longer,

(b) the applicant has no facilities with which to access the internet, or

(c) the Keeper is otherwise satisfied that exceptional circumstances make it impractical to do so.

(2) In particular, paragraph (1)(c) applies where—

(a) the applicant is a natural person,

(b) the application for registration is not made by a person who acts as a solicitor or other legal advisor, and

(c) the applicant is unable to access, or has otherwise been refused access to, the Keeper's online registration system.

Time and date of registration

4.—(1) Where the Keeper accepts an application for registration of an assignation document, a statutory pledge or amendment under section 23(3), 86(2) or 88(2) of the Act—

(a) the date of registration that is to appear in either—

(i) the assignations record for the assignation document, or

(ii) the statutory pledges record for the constitutive document of the statutory pledge or the amendment document,

is the date on which such acceptance takes place,

(b) the time of registration that is to appear in either—

(i) the assignations record for that assignation document, or

(ii) the statutory pledges record for that constitutive document of the statutory pledge or the amendment document,

is the time that such acceptance takes place.

(2) The time of registration mentioned in paragraph (1)(b) is to be given in a format that captures the hour, minute and second of the acceptance referred to in that paragraph.

Online registration system access

5.—(1) In managing and controlling the RoA and the RSP the Keeper is not required to verify that an authorised user of either the RoA or the RSP is entitled to make an application for registration of—

(a) an assignation document under section 23(1) of the Act,

(b) a constitutive document of the statutory pledge under section 86(1) of the Act, or

(c) an amendment document under section 88(1) of the Act.

(2) In this rule, "authorised user" means a person accredited and verified by the Keeper to use the online registration system or a person whose identity has otherwise been verified by the Keeper.

Access to previous records

6.—(1) The assignations record and the statutory pledges record are to contain versions of entries previously registered in those records where those entries have been made.

(2) An extract issued by the Keeper under section 35(2) or 106(2) of the Act must evidence only the current contents of a registered version of an entry, unless paragraph (3) applies.

(3) This paragraph applies where a request is made to the Keeper under section 35(3) or 106(3) of the Act for an extract as at a specific date and time.

(4) Where paragraph (3) applies, the Keeper need only issue the extract of the version of the entry, if it exists, as at the specific date and time requested.

PART 3

RoA Rules

CHAPTER 1

Procedure in relation to applications for registration

Extent of Keeper's duty to accept applications

7. In the exercise of their duty to accept applications for registration of an assignation document under section 23(3) of the Act (application for registration), the Keeper is not required to—

(a) determine whether an assignation document is legally valid,

(b) determine whether a copy of the assignation document submitted for registration under paragraph (a) of that subsection is legally valid,

(c) determine whether any of the information submitted in accordance with paragraph (b) of that subsection is accurate.

Applicant certification of copies of assignation document

8. An application for registration of an assignation document under section 23(1) of the Act must contain certification by the applicant that any copy of such an assignation document submitted is a true copy.

Verification statement

9. A written statement verifying registration of an assignation document under section 26(1) of the Act is to include, as well as the information required by subsection (2) of that section, any further information that the Keeper considers appropriate.

CHAPTER 2

Form and content of information to be used in the RoA

Applications for registration

10.—(1) An application for the registration of an assignation document under section 23(1) of the Act must contain—

(a) the assignor's name and address,

(b) where the assignor is an individual, the assignor's date of birth,

(c) where applicable, the jurisdiction under which the assignor is incorporated or otherwise established,

(d) where the assignor has one, a unique identification number,

(e) the assignee's name and address,

(f) where applicable, the jurisdiction under which the assignee is incorporated or otherwise established,

(g) where the assignee has one, a unique identification number,

(h) where the assignee is not an individual, an address (which may be an email address) to which any request for information regarding the assignation may be sent, and

(i) a description of the claim in accordance with rule 18(2).

(2) Where there is more than one assignor, the applicant is required to provide the information specified under paragraph (1) for each assignor.

(3) Where there is more than one assignee, the applicant is required to provide the information specified under paragraph (1) for each assignee.

(4) For the purposes of paragraph (1)(a) and (e), "name" is to be construed in accordance with rules 12, 13 and 14, as applicable.

(5) For the purposes of paragraph (1)(a) and (e), "address" is to be construed in accordance with rule 17, as applicable.

(6) For the purposes of paragraph (1)(b), the assignor's date of birth is to be provided in a format that captures the day, month and year of their birth.

Content of RoA entries

11.—(1) An entry to the assignations record is to include the information required in paragraphs (2) to (4).

(2) Where the assignor or assignee is a non-natural person—

(a) where they have been incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the statutory or registered name of that person,

(b) where they have not been incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the name of that person as set out in its constitution or other document defining its constitution,

(c) where neither sub-paragraphs (a) nor (b) apply—

(i) the name under which that person carries out business or activities, or

(ii) if that person does not have such a name, the name by which that person is commonly known,

(d) the jurisdiction under which that person is incorporated or otherwise established,

(e) the country of incorporation (or constitution) of that person,

(f) the registered office for that person,

(g) where they do not have a registered office, the country in which that person is based, together with—

(i) where that person has one, a trading, operating or business (or equivalent) address for that person, or

(ii) where that person has no trading, operating or business (or equivalent) address exists, an alternative postal address for that person,

(h) the number allocated to them either—

(i) under section 1066 of the Companies Act 2006(**a**) (including where the assignee or assignor is a company not based in the United Kingdom whose particulars have been registered under regulations made under section 1046 of that Act), or

(ii) by virtue of being a company not based in the United Kingdom that is incorporated or otherwise constituted in a jurisdiction where there is a statutory provision resulting in a company number or other equivalent unique identification number being allocated on that incorporation or constitution, and the applicant has supplied that number,

(i) where they are acting in another legal capacity—

(i) the legal capacity in which they are acting, and

(ii) the name and, where applicable, address of the person they are acting for.

(3) Where the assignor or assignee is an individual—

(a) where they are not acting in the course of any business, the proper name of that individual in accordance with rule 12,

(b) where they are acting in the course of their business under their own name the proper name of that individual in accordance with rules 12 and 13,

(c) where they are acting in the course of their business under a name other than their own name—

(i) the proper name of that individual in accordance with rules 12 and 13, and

(ii) the name, or names, under which that individual conducts their business,

(d) where they are acting in a legal capacity other than that of an individual—

(i) their proper name and address,

(ii) the legal capacity in which they are acting, and

(iii) the name and, where applicable, address of the person they are acting for.

(4) A description of the claim by means of category (or categories) of claim, in accordance with rule 18(2).

(5) An entry to the assignations record may include, where the assignor or assignee is an individual, any alternative forename or surname for that individual.

CHAPTER 3

Required information

Proper name of individual

12.—(1) When submitting an application for the registration of an assignation document under section 23(1) of the Act, where the assignor or the assignee is an individual, the applicant must provide details of the proper name of that assignor or assignee.

(2) The details of the proper name required in paragraph (1) are—

(a) the forename or forenames of the assignor,

(b) the surname or surnames of the assignor,

(c) the forename or forenames of the assignee, and

(d) the surname or surnames of the assignee,

as they appear on an official document.

(3) For the purpose of paragraph (2), an official document is the assignor or assignee's—

(a) driving licence,

(**a**) 2006 c. 46.

(b) passport, or

(c) birth certificate.

Name of sole trader etc.

13.—(1) This rule applies where an assignor or assignee is an individual who is acting in the course of their business.

(2) When submitting an application for the registration of an assignation document under section 23(1) of the Act, the applicant must provide details of—

(a) the assignor's proper name, and

(b) the assignee's proper name,

regardless of whether the assignor or assignee conduct their business under their proper name or not.

(3) Where an assignor or assignee does not conduct their business under their proper name, the applicant must provide the name under which that business is conducted.

(4) In this rule, "proper name" is to be construed in accordance with rule 12.

Name of non-natural person

14.—(1) This rule applies where an assignor or assignee is a non-natural person.

(2) When submitting an application for the registration of an assignation document under section 23(1) of the Act, the applicant must provide—

(a) if an assignor or assignee is incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the statutory or registered name of that person,

(b) if an assignor or assignee is not incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the name of that person as set out in its constitution or other document defining its constitution, and

(c) if neither sub-paragraph (a) nor (b) applies—

(i) the name under which that person carries out its business or activities, or

(ii) if it does not have a name described in head (i), the name by which that person is commonly known.

Name, address and legal capacity of assignor or assignee when acting for another party

15.—(1) This rule applies where an assignor or assignee ("A") is acting in a legal capacity in respect of another person ("B").

(2) When submitting an application for the registration of an assignation document under section 23(1) of the Act, the applicant is required to—

(a) provide the details of the name of A in accordance with rule 11(5), 12(2) or 14(2), as applicable,

(b) provide the address of A (where applicable, in accordance with rule 17),

(c) where applicable, provide the unique identification number of A, to be construed in accordance with rule 16,

(d) describe the legal capacity in which A is acting in connection with B,

(e) provide the details of the name of B in accordance with rule 11(5), 12(2) or 14(2), as applicable,

(f) where B is an individual, provide the address of B,

(g) in relation to the assignee only, provide the correspondence address of A (which may be an email address).

Unique identification number

16.—(1) This rule applies where an assignor or assignee is a non-natural person and the applicant submits an application for registration of an assignation document under section 23(1) of the Act.

(2) The applicant must provide details of the jurisdiction under which the assignor and assignee are incorporated or otherwise constituted.

(3) Where the assignor or assignee has been allocated a number under section 1066 of the Companies Act 2006 (including where the assignee or assignor is a company not based in the United Kingdom whose particulars have been registered under section 1046 of that Act), that number must be included in the application for registration mentioned in paragraph (1).

(4) Where the assignor or assignee—

(a) does not have the number mentioned in paragraph (3),

(b) is not based in the United Kingdom, and

(c) is incorporated or otherwise constituted in a jurisdiction where—

(i) there is a statutory provision that provides them with a company number or other equivalent unique identification number, and

(ii) such a number has been allocated to them on their incorporation or constitution,

the applicant may provide details of that number in the application for registration mentioned in paragraph (1).

Address of non-natural person

17.—(1) This rule applies where an assignor or assignee is a non-natural person and the applicant applies for the registration of an assignation document under section 23(1) of the Act.

(2) The applicant must provide details of—

(a) the country of incorporation or constitution, and

(b) the registered office,

of the non-natural person.

(3) Where the assignor or assignee is a non-natural person that does not have a registered office, the applicant must provide the name of the country in which that person is based, together with—

(a) where that person has one, a trading, operating or business address (or equivalent) for that person, or

(b) where that person has no trading, operating or business address (or equivalent), a postal address for that person.

Description of claim

18.—(1) An application for registration of an assignation document under section 23(1) of the Act must describe the claim to which the application relates.

(2) In describing the claim, the applicant must choose at least one of the appropriate categories provided by the Keeper in the application for registration of an assignation document under section 23(1) of the Act.

CHAPTER 4

Searches, redactions, extracts and corrections

Redaction of information from searches, extracts, and copies of assignation documents

19.—(1) Where an assignor is an individual, personal information relating to that assignor appearing in an entry to the RoA—

(a) must not be available to any person searching the RoA, and

(b) must not appear in any extract of an assignations record entry issued by the Keeper under section 35(2) of the Act.

(2) Paragraph (1) does not apply to the assignor's full date of birth or other personal information where it appears in the copy of the assignation document submitted for registration.

(3) All personal information relating to the assignor, the assignee or any other party may be redacted from the copy of the assignation document submitted for registration in the RoA under section 23(3)(a) of the Act prior to it being submitted.

(4) Where the Keeper receives such a redacted copy of the assignation document for registration, they may accept that copy assignation document for registration.

(5) In this rule—

"full date of birth" means a date that includes the day, month and year of a person's birth,

"personal information" includes—

(a) where a person has one, a full date of birth,

(b) a number or other identifier of a bank or securities account of a non-natural person or individual, and

(c) a signature,

but does not include their name, address or, where they have one, unique identification number.

Corrections

20.—(1) For an entry in the assignations record which has been corrected under section 29 of the Act, the corrected assignations record entry is to include—

(a) where the entry is to remain in the assignations record after the correction, details of that correction (including the date and time of that correction), and

(b) where the Keeper becomes aware of a manifest inaccuracy in an assignations record entry but it is not manifest to them how to correct it, a note that it is not manifest to the Keeper how to correct it.

(2) A notification of correction of the RoA issued by the Keeper under section 30(3) of the Act may contain any further information the Keeper considers appropriate.

(3) In carrying out their duty to notify under section 30(3) of the Act, and after having corrected a manifest inaccuracy appearing in the assignations record for a registered assignation, the Keeper must notify—

(a) the assignor (including purported assignor),

(b) the assignee,

(c) the party who brings the manifest inaccuracy in the RoA to the attention of the Keeper,

(d) any other party involved in the registration process who is not the assignor or assignee (including, where the registered assignation being corrected is subject to a condition, any party involved with the fulfilment of the condition where this party is drawn to the Keeper's attention as part of the correction application).

(4) Where the Keeper's duty to notify of a correction of the RoA under section 30(3) applies, that notification must be issued by the Keeper by email.

(5) Where it is not possible for the Keeper to issue a notification by email as required in paragraph (4), it must be issued by the Keeper by post.

(6) Where the Keeper notes an inaccuracy in an assignations record entry under section 29(2)(b) of the Act, the Keeper must—

(a) notify this inaccuracy to any party who appears to the Keeper to be materially affected by it, and

(b) notify this inaccuracy by email, in so far as it is reasonable and practicable to do so.

(7) Where it is not possible for the Keeper to issue a notification by email under paragraph (6)(b), it must be issued by post.

(8) Where the Keeper issues a notification under paragraph (6) or (7), it may contain any further information the Keeper considers appropriate.

PART 4

RSP Rules

CHAPTER 1

Procedure in relation to applications for registration

Extent of Keeper's duty to accept applications

21. In the exercise of their duty to accept applications for registration of a statutory pledge under section 86(2) of the Act, and their duty to accept applications for amendment of a statutory pledge under section 88(2) of the Act the Keeper is not required to—

(a) determine whether a constitutive document of the statutory pledge is legally valid,

(b) determine whether a copy of a constitutive document of the statutory pledge submitted for registration under section 86(2)(a) of the Act is legally valid,

(c) determine whether an amendment document is legally valid,

(d) determine whether a copy of an amendment document submitted for registration under section 88(2)(a) of the Act is legally valid,

(e) determine whether any of the information submitted in accordance with section 86(2)(b) or 88(2)(b) of the Act is accurate.

Applicant certification of copies of statutory pledge or amendment document

22. An application for registration of a statutory pledge or of an amendment of a statutory pledge under section 86(1) or 88(1) of the Act must contain certification by the applicant that any copy of such a statutory pledge or amendment of a statutory pledge submitted is a true copy.

Applicant certification of competent individual and permitted asset

23.—(1) Paragraph (2) applies where the provider of a statutory pledge is an individual.

(2) An application for registration of a statutory pledge or of an amendment of a statutory pledge under section 86(1) or 88(1) of the Act respectively must contain certification by the applicant that—

(a) the provider is an individual competent to be a provider under section 46(1)(a) of the Act, and

(b) the encumbered property is a permitted asset in accordance with section 46(1)(b) and 46(2) of the Act.

(3) This rule does not apply where an individual is a provider of a statutory pledge over a financial instrument, within the meaning given by regulation 3(1) of the Financial Collateral Arrangements (No. 2) Regulations 2003.

Verification statement

24. A written statement verifying registration of, or amendment to, a statutory pledge under section 90(1) of the Act is to include, as well as the information required by subsection (2) of that section, any further information that the Keeper considers appropriate.

CHAPTER 2

Form and content of information to be used in the RSP

Applications for registration

25.—(1) An application for registration of a statutory pledge or of an amendment of a statutory pledge under section 86(1) or 88(1) of the Act respectively must contain—

(a) the provider's name and address,

(b) where the provider is an individual, the provider's date of birth,

(c) where the provider has one, a unique identification number,

(d) the secured creditor's name and address,

(e) where the secured creditor has one, a unique identification number,

(f) where the secured creditor is not an individual, an address (which may be an email address) to which any request for information regarding the statutory pledge may be sent, and

(g) a description of the encumbered property in accordance with rule 33(2).

(2) Where there is more than one provider, the applicant is required to provide the information specified in paragraph (1) for each provider.

(3) Where there is more than one secured creditor, the applicant is required to provide the information specified in paragraph (1) for each secured creditor.

(4) For the purposes of paragraph (1)(a) and (d), "name" is to be construed in accordance with rules 27, 28 and 29, as applicable.

(5) For the purposes of paragraph (1)(a) and (d), "address" is to be construed in accordance with rule 32, as applicable.

(6) For the purposes of paragraph (2)(b), the provider's date of birth is to be provided in a format that captures the day, month and year of their birth.

Content of RSP entries: required information

26.—(1) Where applicable, an entry to the statutory pledges record must include the information required in paragraphs (2) to (4).

(2) Where the provider or secured creditor is a non-natural person—

(a) where they have been incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the statutory or registered name of that person,

(b) where they have not been incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the name of that person as set out in its constitution or other document defining its constitution,

(c) where neither sub-paragraphs (a) nor (b) apply—

(i) the name under which that person carries out business or activities, or

(ii) if that person does not have such a name, the name by which that person is commonly known,

(d) the jurisdiction under which that person is incorporated or otherwise established,

(e) the country of incorporation (or constitution) of that person,

(f) the registered office for that person,

(g) where they do not have a registered office, the country in which that person is based, together with—

(i) where that person has one, a trading, operating or business (or equivalent) address for that person, or

(ii) where that person has no trading, operating or business (or equivalent) address exists, an alternative postal address for that person,

(h) the number allocated to them either—

(i) under section 1066 of the Companies Act 2006 (including where the assignee or assignor is a company not based in the United Kingdom whose particulars have been registered under regulations made under section 1046 of that Act), or

(ii) by virtue of being a company not based in the United Kingdom that is incorporated or otherwise constituted in a jurisdiction where there is a statutory provision resulting in a company number or other equivalent unique identification number being allocated on that incorporation or constitution, and the applicant has supplied that number,

(i) where they are acting in another legal capacity—

(i) the legal capacity in which they are acting, and

(ii) the name and, where applicable, address of the person they are acting for,

(3) Where the provider or secured creditor is an individual—

(a) where they are not acting in the course of any business, the proper name of that individual in accordance with rule 27,

(b) where they are acting in the course of their business, under their own name, the proper name of that individual in accordance with rules 27 and 28,

(c) where they are acting in the course of their business under a name other than their own name—

(i) the proper name of that individual in accordance with rules 27 and 28, and

(ii) the name, or names, under which that individual conducts their business,

(d) where they are acting in a legal capacity other than that of an individual—

(i) their proper name and address,

(ii) the legal capacity in which they are acting, and

(iii) the name and, where applicable, address of the person they are acting for,

(4) A description of the encumbered property by means of category (or categories) of encumbered property.

(5) An entry to the statutory pledges record may include, where the provider or secured creditor is an individual, any alternative forename or surname for that individual.

CHAPTER 3

Required information

Proper name of individual

27.—(1) When submitting an application for registration of a statutory pledge or an amendment under section 86(1) or 88(1) of the Act, where the provider or the secured creditor is an individual, the applicant must provide details of the proper name of that provider or secured creditor.

(2) The details of the proper name required in paragraph (1) are—

(a) the forename or forenames of the provider,

(b) the surname or surnames of the provider,

(c) the forename or forenames of the secured creditor,

(d) the surname or surnames of the secured creditor,

as they appear on an official document.

(3) For the purpose of paragraph (2), an official document is the provider or secured creditor's—

(a) driving licence,

(b) passport, or

(c) birth certificate.

Name of sole trader etc.

28.—(1) This rule applies where a provider or a secured creditor is an individual who is acting in the course of their business.

(2) When submitting an application for registration of a statutory pledge or an amendment under section 86(1) or 88(1) of the Act, the applicant must provide details of—

(a) the provider's proper name, and

(b) the secured creditor's proper name,

regardless of whether the provider or secured creditor conducts their business under their proper name or not.

(3) Where a provider or a secured creditor does not conduct their business under their proper name, the applicant must provide the name under which that business is conducted.

(4) In this rule, "proper name" is to be construed in accordance with rule 27.

Name of non-natural person

29.—(1) This rule applies where a provider or secured creditor is a non-natural person.

(2) When submitting an application for the registration of a statutory pledge or an amendment under section 86(1) or 88(1) of the Act, the applicant must provide—

(a) if a provider or secured creditor is incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the statutory or registered name of that person,

(b) if a provider or secured creditor is not incorporated or otherwise constituted under an enactment or rule of law (in the United Kingdom or otherwise), the name of that person as set out in its constitution or other document defining its constitution, and

(c) if neither sub-paragraph (a) nor (b) applies—

(i) the name under which that person carries out its business or activities, or

(ii) if it does not have a name described in sub-head (i), the name by which that person is commonly known.

Name, address, date of birth and legal capacity of provider and secured creditor when acting for another party

30.—(1) This rule applies where a provider or secured creditor ("A") is acting in a legal capacity in respect of another person ("B").

(2) When submitting an application for the registration of a statutory pledge or an amendment under section 86(1) or 88(1) of the Act, the applicant is required to—

(a) provide the details of the name of A in accordance with rule 26(5), 27(2) or 29(2), as applicable,

(b) provide the address of A (where applicable, in accordance with rule 32),

(c) in relation to the provider only, where A is an individual acting in the capacity of trustee of a charity or as a member of an unincorporated association in terms of section 46(1)(a)(ii) or (iii) of the Act respectively, provide the date of birth of A,

(d) where applicable, provide the identification number of A, to be construed in accordance with rule 31,

(e) describe the legal capacity in which A is acting in connection with B,

(f) provide the details of the name of B in accordance with rule 26(5), 27(2) or 29(2), as applicable,

(g) where B is an individual natural person, provide the address of B,

(h) in relation to the secured creditor only, provide the correspondence address of A (which may be an email address).

Unique identification number

31.—(1) This rule applies where a provider or secured creditor is a non-natural person and the applicant submits an application for registration of a statutory pledge or an amendment under section 86(1) or 88(1) of the Act respectively.

(2) The applicant must provide details of the jurisdiction under which the provider and secured creditor are incorporated or otherwise constituted.

(3) Where the provider or secured creditor has been allocated a number under section 1066 of the Companies Act 2006 (including where the provider or secured creditor is a person not based in the United Kingdom whose particulars have been registered under section 1046 of that Act), that number must be included in the application for registration mentioned in paragraph (1).

(4) Where the provider or secured creditor—

(a) does not have the number mentioned in paragraph (3),

(b) is not based in the United Kingdom, and

(c) is incorporated or otherwise constituted in a jurisdiction where—

(i) there is a statutory provision that provides them with a company number or other equivalent unique identification number, and

(ii) such a number has been allocated to them on their incorporation or constitution,

the applicant may provide details of that number in the applications for registration mentioned in paragraph (1).

Address of non-natural person

32.—(1) This rule applies where a provider or a secured creditor is a non-natural person and the applicant applies for registration of a constitutive document of the statutory pledge or an amendment under section 86(1) or 88(1) of the Act.

(2) The applicant must provide details of—

(a) the country of incorporation or constitution, and

(b) the registered office,

of the non-natural person.

(3) Where the provider or secured creditor is a non-natural-person that does not have a registered office, the applicant must provide the name of the country in which that person is based, together with—

(a) where that person has one, a trading, operating or business address (or equivalent) for that person, or

(b) where that person has no trading, operating or business address (or equivalent), a postal address for that person.

Description of encumbered property

33.—(1) An application for registration of a statutory pledge or of an amendment under sections 86(1) or 88(1) of the Act must describe the encumbered property to which the application relates.

(2) In describing the encumbered property, the applicant must choose at least one of the appropriate categories provided by the Keeper in the application for registration of a statutory pledge or of an amendment under sections 86(1) or 88(1) of the Act.

CHAPTER 4

Redactions, searches and extracts

Redaction of information from searches, extracts and copies of constitutive and amendment documents

34.—(1) Where a provider is an individual, personal information relating to that provider appearing in an entry to the RSP—

(a) must not be available to any person searching the RSP, and

(b) must not appear in any extract of an statutory pledges record entry issued by the Keeper under section 106(2) of the Act.

(2) Paragraph (1) does not apply to the provider's full date of birth or other personal information where it appears in the copy of the constitutive document of the statutory pledge or the amendment document submitted for registration.

(3) All personal information relating to the provider, the secured creditor or any other party may be redacted from the copy of the constitutive document of the statutory pledge or the amendment document prior to it being registered under section 48(2)(b) or 49(2)(b) of the Act.

(4) Where the Keeper receives such a redacted copy of the constitutive document of the statutory pledge or the amendment document with an application for registration, they may accept that copy of the constitutive document of the statutory pledge or the amendment document for registration.

(5) In this rule—

"full date of birth" means a date that includes the day, month and year of a person's birth,

"personal information" includes—

(a) where a person has one, a full date of birth,

(b) a number or other identifier of a bank or securities account of a non-natural person or individual, and

(c) a signature

but does not include their name, address or, where they have one, unique identification number.

CHAPTER 5

Corrections

Corrections: entries

35. For an entry which has been corrected under section 97(1), 99(6)(b) or (8) or 100(1)(a) or (3)(a) of the Act, the corrected statutory pledges record must include—

(a) where the entry is to remain in the statutory pledges record after the correction, details of that correction (including the date and time of that correction),

(b) where the Keeper becomes aware of a manifest inaccuracy in a statutory pledges record entry but it is not manifest to them how to correct it, a note that it is not manifest to the Keeper how to correct it.

Corrections: application by secured creditor

36.—(1) In the exercise of their duty to accept an application for correction of the statutory pledges record under section 96(2) of the Act, the Keeper is not required to determine whether—

(a) any information sent to them for the purposes of that section is accurate,

(b) any documentation submitted in support of an application under that section is genuine, accurate or legally valid,

(c) an authorised user of the online registration system is entitled to apply for that correction to be made.

(2) Where a relevant person applies to the Keeper for correction under section 96(1) of the Act using the online registration system, they must enter the information required in paragraph (3).

(3) The information required in paragraph (2) includes—

(a) the registration number allocated under section 87(1)(b) of the Act for the entry to be corrected,

(b) the name and address of the secured creditor making the correction in accordance with rules 27 to 30, and 32,

(c) the type of correction that is to be made to the statutory pledges record entry,

(d) details of the correction, or corrections, to be made to the statutory pledges record entry, and

(e) the email address for the provider and current registered creditor (if different from relevant person).

(4) A relevant person may, when applying for correction under section 96(1) of the Act, provide any documentation considered by them to disclose, or to contribute to disclosing, the inaccuracy which would be corrected by that correction application.

Corrections: demand for application for correction

37.—(1) In the exercise of their duty to accept an application for correction of the statutory pledges record under section 99(1) of the Act, the Keeper is not required to determine whether—

(a) the information contained in the application is correct,

(b) any documentation submitted in support of an application under that section is genuine, accurate or legally valid,

(c) that the conditions of sections 98(2) and (3) of the Act apply to the applicant,

(d) that the demand sent to the registered creditor in terms of section 98(1) of the Act was in the form prescribed by section 98(4)(a) of the Act,

(e) the period of time specified for compliance with the demand in section 98(4)(b) of the Act has expired.

(2) Where an application for correction is made to the Keeper by a person under section 98(6) of the Act, the applicant must—

(a) where it is—

(i) made using the online registration system, provide any further information to the Keeper that is required by their online registration system, or

(ii) not made on the online registration system, provide any further information otherwise required by the Keeper,

(b) provide details of—

(i) the registration number allocated under to the entry in the statutory pledges record entry to be corrected section 87(1)(b) of the Act,

(ii) the name and address of that person,

(iii) the name and address of the provider (including names and addresses for all and any co-providers) of the statutory pledge as they appear in the statutory pledges record entry to be corrected,

(iv) the registered creditor's name and address as it appears in the statutory pledges record entry to be corrected,

(v) the name and address (which may be an email address) of the registered creditor to which a demand has previously been sent in terms of section 98(1) of the Act,

(vi) a description of the correction, or corrections, required to be made to the statutory pledges record entry.

(3) In the exercise of their duty to serve notice on a registered creditor under section 99(3)(a) of the Act, the Keeper must serve that notice—

(a) at the address for the registered creditor (which may be an email address) that the applicant has provided as being the address to which a demand for an application for correction under section 98(1) of the Act has been sent, and

(b) if different from the address in paragraph (a), at the address for that registered creditor as it appears in the relevant statutory pledges record entry to be corrected.

(4) The date to be specified for correction by the Keeper in a notice served by them under section 99(3)(a) of the Act must be 21 days after the date of such service, the date of such service being—

(a) where service is by email, the date of sending of that email,

(b) where service is by post, the day after the date on the notice.

(5) An applicant may, when making an application for correction under section 98(6) of the Act, provide any documentation considered by them to disclose, or to contribute to disclosing, the inaccuracy being corrected by that correction application.

(6) The format and content of any documentation issued by the Keeper under section 99(3)(a), (c) or (d) of the Act is to be provided in a form the Keeper considers appropriate.

(7) Where the Keeper has a duty to issue a statement or notification under section 99(3)(c) or (d) of the Act, that statement must be issued by email.

(8) Where it is not possible for the Keeper to issue a statement or notification by email as required in paragraph (7), that statement or notification must be issued by the Keeper by post.

(9) In this rule, "applicant" means the person who applies to the Keeper under section 98(6) of the Act.

Corrections: written statements and notifications

38.—(1) A written statement verifying correction of the RSP issued by the Keeper under section 97(2) of the Act must contain, as well as the information required by section 97(3)(a) of the Act any other information the Keeper considers appropriate.

(2) A notification for correction of the RSP issued by the Keeper under section 102(4) of the Act must contain any information the Keeper considers appropriate.

(3) In carrying out their duty to notify under section 102(4) of the Act, where that has been invoked as a result of section 98(6), 100(1) or (2) of the Act, the Keeper must notify—

(a) the provider (including purported providers),

(b) the registered creditor,

(c) where a correction has been invoked as a result of either sections 98(6) or 100(1) of the Act, the applicant, if not the provider or registered creditor,

(d) where a correction has been invoked as a result of section 100(2) of the Act—

(i) the party who brings the manifest inaccuracy to the Keeper's attention, and

(ii) where the party mentioned in head (i) neither is the provider or registered creditor, any other party who is mentioned in that process.

(4) Where the Keeper's duty to notify of a correction of the RSP under section 102(4) of the Act, and where that has been invoked as a result of section 98(6), 100(1) or (2) of the Act, that notification must be issued by email.

(5) Where it is not possible for the Keeper to issue a notification by email under paragraph (4), it must be issued by post.

(6) Where the Keeper issues a written statement verifying a correction under section 97(2) of the Act, the Keeper must send a copy of this statement by email to the current registered creditor if that creditor is different to the person applying for correction.

(7) Where the Keeper notes an inaccuracy in an entry to the statutory pledges record under section 100(3)(b) of the Act, the Keeper must—

(a) notify this inaccuracy to any party, or parties, who appear to the Keeper to be materially affected by it, and

(b) notify this inaccuracy by email, in so far as it is reasonable and practicable to do so.

(8) Where it is not possible for the Keeper to issue a notification by email under paragraph (7)(b), it must be issued by the Keeper by post.

(9) Where the Keeper issues a notification under paragraph (7) or (8) it may contain any further information the Keeper considers appropriate.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make rules for the Register of Assignations ("RoA") and Register of Statutory Pledges ("RSP") as established under the Moveable Transactions (Scotland) Act 2023 ("the Act") which provide for the making up and keeping up of the registers, procedures in relation to application for registration and correction, the form and content of any document or information to be used in relation to the registers and other matters under the Act.

The registers will be under the management and control of the Keeper of the Registers of Scotland ("the Keeper"). Sections 37 and 109 of the Act provide for the liability of the Keeper.

The rules are contained in the schedule to these Regulations which is divided into 3 parts.

Part 1 provides the structure of, and an overarching interpretation provision to, the rules in the schedule.

Part 2 contains rules common to both registers:

- rule 3 for a presumption in favour of digital registration and the exceptions to that presumption,
- rule 4 for determination of the time and date that will appear on the registration of documents,
- rule 5 that the Keeper is not required to verify that any authorised user of the registers is entitled to make an application for registration,
- rule 6 for the ability to access previous records.

Part 3 provides for rules in relation to the RoA:

- rule 7-9 for matters the Keeper is not required to determine, for certification of true copies to be provided to the Keeper, and for additional information in a verification statement as the Keeper considers appropriate,
- rule 10 prescribes the information required under an application for registration of an assignation document,
- rule 11 prescribes the content of an entry to the assignations record,
- rules 12-14 for the name details to be submitted when applying for registration of an assignor or assignee where they are an individual, sole trader and non-natural person,
- rule 15 for the details to be provided when an assignee or assignor is acting in a legal capacity in respect of another person,
- rule 16 for the details to be provided in relation to an assignor or assignee's unique identification number where they are a non-natural person,
- rule 17 for the details to be provided in relation to an assignor or assignee's address where they are a non-natural person,
- rule 18 for the descriptions of claims required,
- rule 19 for the redaction of sensitive information relating to an assignor where they are an individual,
- rule 20 for the RoA corrections process.

Part 4 provides for rules in relation to the RSP:

- rule 21-24 for matters the Keeper is not required to determine, for certification of true copies to be provided to the Keeper, that when applying for registration that the provider is competent to do so and the encumbered property is a permitted asset in accordance with section 46 of the Act (this rule does not apply where an individual is acting as a provider of statutory pledge over a financial instrument), and for additional information in a verification statement as the Keeper considers appropriate,

- rule 25 prescribes information required under an application for registration of a constitutive or amendment document,
- rule 26 prescribes the content of an entry to the statutory pledges record,
- rules 27-29 for the name details to be submitted when applying for registration in relation to a provider or secured creditor where they are an individual, sole trader and non-natural person,
- rule 30 for the details to be provided when a provider or secured creditor is acting in a legal capacity in respect of another person,
- rule 31 for the details to be provided in relation to a provider or secured creditor's unique identification number where they are a non-natural person,
- rule 32 for the details to be provided in relation to a provider or secured creditor's address where they are a non-natural person,
- rule 33 for the descriptions of encumbered property required,
- rule 34 for the redaction of sensitive information relating to a provider where they are an individual,
- rules 35-38 for the RSP corrections process.

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