SCOTTISH STATUTORY INSTRUMENTS

# 2025 No. 104

# MOVEABLE TRANSACTIONS

## The Moveable Transactions (Scotland) Act 2023 Amendment Regulations 2025

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| *Made - - - -* | *27th March 2025* |
| *Coming into force - -* | *1st April 2025* |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 4(7)(c), 50(4) and 119 of the Moveable Transactions (Scotland) Act 2023(**a**) and all other powers enabling them to do so.

In accordance with sections 118(2) and (3) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

### Citation and commencement

**1.** These Regulations may be cited as the Moveable Transactions (Scotland) Act 2023 Amendment Regulations 2025 and come into force on 1 April 2025.

### Amendment of the Moveable Transactions (Scotland) Act 2023

**2.**—(1) The Moveable Transactions (Scotland) Act 2023 is amended as follows.

(2) In section 4(6)(a) (assignation of claims: insolvency)—

(a) after sub-paragraph (iv), insert "or",

(b) sub-paragraph (v), and "or" immediately following it, are repealed, and

(c) in sub-paragraph (vi) for "(v)" substitute "(iv)".

(3) In section 6 (limitations as to assignability: general)—

(a) in subsection (3), for "assignation document in respect of the claim was granted" substitute "relevant time",

(b) after subsection (3), insert—

"(3A) For the purposes of subsection (3), the "relevant time" is—

(a) where the claim is held by the holder immediately prior to the assignation document being granted in respect of the claim, the time at which the document is granted,

(b) where the claim is not held by the holder until after the assignation document is granted in respect of the claim, the time at which the claim would have otherwise transferred.".

(**a**) 2023 asp 3.

(4) In section 14 (asserting defence or right of compensation)—

(a) in subsection (1), for "an assignation document is granted in respect of the claim" substitute "the relevant time",

(b) after subsection (1), insert—

"(1A) For the purposes of subsection (1), the "relevant time" is—

(a) where the claim is held by the assignor immediately prior to the assignation document being granted in respect of the claim, the time at which the document is granted,

(b) where the claim is not held by the assignor until after the assignation document is granted in respect of the claim, the time at which the claim is transferred.".

(c) in subsection (3), for the words from "only" to the end substitute—

"by reason only of (any or all of)—

(a) an assignation document's having been registered in respect of the claim,

(b) the application of section 8(9),

(c) the application of section 8(10).".

(5) In section 39 (rules), for subsection (3) substitute—

"(3) Before making RoA Rules under subsection (1), the Scottish Ministers must consult the Keeper.".

(6) In section 50(3)(a) (creation of statutory pledge: insolvency)—

(a) after sub-paragraph (iv), insert "or",

(b) sub-paragraph (v), and "or" immediately following it, are repealed, and

(c) in sub-paragraph (vi), for "(v)" substitute "(iv)".

(7) In section 111 (rules), for subsection (3) substitute—

"(3) Before making RSP Rules under subsection (1), the Scottish Ministers must consult the Keeper.".

*IVAN McKEE*
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
27th March 2025

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Moveable Transactions (Scotland) Act 2023 (asp 3) ("the 2023 Act"). They make modifications and minor corrections for the purposes of, in connection with and for giving effect to the 2023 Act.

Sections 4(6) and 50(3) of the 2023 Act define insolvency for the purposes of the rules in the 2023 Act in relation to assignation and statutory pledge. Regulation 2(2) and (6) amends the 2023 Act by omitting sections 4(6)(a)(v) and 50(3)(a)(v) to remove an assignor or provider's application for an approved debt payment programme under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) from those provisions.

Regulations 2(3) and (4)(a) and (b) amend sections 6(3) and 14(1) of the 2023 Act, being limitations as to assignability and defences respectively. The effect of the amendments is the same – so agreements or statements that a claim is not to be assigned can be made, or defences can be asserted, under those provisions in the 2023 Act respectively, in relation to both existing claims and future claims not yet held by the assignor when an assignation was granted.

Regulation 2(4)(c) amends section 14(3) of the 2023 Act with the effect that a debtor is not to be treated as receiving notice of an assignation for the purposes of a right of compensation etc. if an assignation document relating to the claim is registered or if intimation (notice) is deemed to have been received under section 8(9) and (10) of the 2023 Act.

Regulation 2(5) and (7) amends the 2023 Act to correctly reference the parliamentary procedure to be used by the Scottish Ministers when making rules by way of regulations for the Register of Assignations and Register of Statutory Pledges, in sections 39 and 111 of the 2023 Act respectively.

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