POLICY NOTE

THE MOVEABLE TRANSACTIONS (SCOTLAND) ACT 2023 (COMMENCEMENT) REGULATIONS 2024

SSI 2024/378 (C. 27)

The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 121(2) of the Moveable Transactions (Scotland) Act 2023 ("the 2023 Act"). The instrument is laid in the Scottish Parliament in accordance with section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010.

Summary Box

The purpose of the instrument is to bring the 2023 Act into force, so far as not already in force.

Policy Objectives

The 2023 Act reforms and modernises Scots law to make it easier for businesses and individuals to assign claims or raise finance using moveable property. Moveable property can include tangible things such as vehicles, livestock and machinery as well as intangible things such as intellectual property (patents, royalties etc.).

This instrument brings the remaining provisions of the 2023 Act into force on 1 April 2025.

The 2023 Act provides for the creation of two new registers, the Register of Assignations ("RoA") and the Register of Statutory Pledges ("RSP"). The operation of both new registers will simplify and facilitate moveable property transactions in Scotland:

- the ownership of debts and other obligations will be able to be assigned (transferred) by registering the assignation in the RoA rather than by giving notice (intimation) to the debtor (although intimation will remain available); and
- corporeal (tangible) moveable property and incorporeal (intangible) moveable property (such as intellectual property and financial assets) will be able to be used as security for loans by registering a statutory pledge in the RSP, removing the current need to transfer either possession of, or title to, the property to the creditor or the use of expensive and inefficient workarounds.

The two new registers will be under the management and control of the Keeper of the Registers of Scotland.

No transitional or saving provisions are required for the commencement of the 2023 Act. Registration under Chapter 2 of Part 1 of the 2023 Act will be available to assignations granted or transferred before 1 April 2025. From that date onwards, the transfer of assignations, even if granted before that date, must be completed in accordance with Part 1 of the 2023 Act.

Alongside the commencement regulations, the Scottish Ministers are laying the following instruments to implement the Act:

- The Moveable Transactions (Register of Assignations and Register of Statutory Pledges Rules) (Scotland) Regulations 2024
- The Moveable Transactions (Scotland) Act 2023 Amendment Regulations 2025
- The Moveable Transactions (Forms) (Scotland) Regulations 2024
- The Registers of Scotland (Fees and Plain Copies) Miscellaneous Amendments Order 2025

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

These commencement Regulations have not been consulted on as the 2023 Act was consulted on. They have been discussed with the expert stakeholder working group on the Act.

Impact Assessments

An Equality Impact Assessment ("EQIA") has not been carried out as one was undertaken for the introduction of the Moveable Transactions (Scotland) Bill ("the Bill") to Parliament. No equality issues were identified.

Financial Effects

A Business and Regulatory Impact Assessment ("BRIA") has not been carried out as a BRIA was completed when the Bill was introduced to Parliament. No changes made to the Bill through its parliamentary passage does not alter the overall impact on businesses which found at that time to be positive. The BRIA has been reviewed for these Regulations and it was concluded that the BRIA meets the needs of these Regulations.

Scottish Government
Justice
December 2024