



The Scottish Parliament  
Pàrlamaid na h-Alba

## Delegated Powers and Law Reform Committee

Rt Hon Alister Jack MP  
Secretary of State for Scotland  
*By email*

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2 November 2022

### Moveable Transactions (Scotland) Bill

Dear Secretary of State,

I am writing in relation to the Scottish Parliament's Delegated Powers and Law Reform Committee consideration of the [Moveable Transactions \(Scotland\) Bill](#).

#### *Financial collateral arrangements*

As you may be aware, the Bill seeks to implement the Scottish Law Commission (SLC) Report on Moveable Transactions (Scot Law Com No. 249) published in December 2017.<sup>1</sup> If passed, the Bill would reform the law in relation to the assignation of claims and using moveable property as security for a loan to make it easier to use moveable assets to raise finance.

However, not all SLC recommendations are being taken forward in this Bill. The Policy Memorandum accompanying the Bill indicates that it had been the intention that the Bill should provide for the assignation of claims including those which are financial collateral arrangements.<sup>2</sup> In addition, it was intended that it would be possible to create a statutory pledge over financial collateral. However, the Scottish Government concluded that it cannot include the provisions which were included in the SLC Bill because these may be beyond the legislative competence of the Scottish Parliament. The Scottish Government indicated that it had asked the UK Government to grant an order under section 104 of the Scotland Act 1998.

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<sup>1</sup> [Scottish Law Commission :: Moveable transactions \(scotlawcom.gov.uk\)](https://www.scotlawcom.gov.uk/moveable-transactions)

<sup>2</sup> <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/moveable-transactions-scotland-bill/introduced/spbill15pms062022accessible.pdf>

We understand that you are currently in discussion with the Scottish Government in relation to the proposed section 104 order. **It would be helpful if you could indicate the stage which those discussions have reached; whether you anticipate that a section 104 order will be granted and, if so, the timescale to which you are working for bringing forward such an order.**

*Co-ordination with Companies House requirements*

The Bill will create two new Registers; the Register of Assignations and the Register of Statutory Pledges, which will be overseen by the Keeper of the Registers of Scotland. The Committee recognises that companies need to record certain types of security affecting the assets of a business at Companies House. In their evidence to the Committee, stakeholders have pointed to the likely duplication of effort in terms of recording information in the Bill's registers as well as at Companies House. Some respondents called for there to be links between the registers to avoid this.

The Committee understands that the Scottish Government is in discussion with your office regarding the likely duplication between the records kept at Companies House and those contained on the new Registers with a view to exploring how this duplication might be addressed in the future.

**It would be helpful if you could indicate the stage at which these discussions have reached; whether you consider steps might be taken to address this issue and, if possible, potential timescales.**

In order that your responses to these issues can be reflected in the Committee's report on the Bill I would be grateful if you were able to respond **by Wednesday 16 November 2022.**

I look forward to hearing from you.

Yours sincerely

Stuart McMillan MSP  
Convener of the Delegated Powers and Law Reform Committee