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Convener
Economy and Fair Work Committee
The Scottish Parliament
EDINBURGH
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26 March 2025

Dear Colin,

MOVEABLE TRANSACTIONS (SCOTLAND) ACT 2023

In my letter of 31 January to the Committee where I responded to a number of issues raised by the Committee when I gave evidence on a number of SSIs relating to the Moveable Transactions (Scotland) Act 2023, I gave a commitment to write to the small business and consumer bodies to alert them to the coming into force date of the legislation, to highlight the changes the legislation will make and to point them in the direction of guidance which will become available after commencement. I attach a copy of the text of my letter to both the Federation of Small Businesses in Scotland and to Citizens Advice Scotland.

I also committed the Scottish Government to publishing the responses we received to the short consultation carried out in 2023 on the definition of insolvency. These are due to be published on 1 April 2025 and I will ensure that a link is forwarded to the Committee as soon as it becomes available.



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Text of letters to the FSB and CAS

The Moveable Transactions (Scotland) Act 2023 was passed by the Scottish Parliament on 4 May 2023 and received Royal Assent on 13 June 2023. The Act implements the recommendations contained in a 2017 Scottish Law Commission report on moveable transactions. I would like to take the opportunity to thank you again for your constructive engagement when the legislation was being scrutinised by the Scottish Parliament.

The aim of the Act is to modernise Scots law in relation to transactions concerning moveable property. Moveable transactions law is vital to the economy of any country with a developed legal system. It enables businesses to use their assets to raise finance by selling debts owed to them or by granting security over moveable property. In these ways, businesses can secure crucial cash flow. The Act will make various types of commercial transactions more efficient, less expensive and less complicated than they currently are. This will lead to greater access to finance for businesses in Scotland, thus benefitting the general economy.

Implementation of the Act has been a complex major project from a legal and operational perspective. It has involved not only a package of secondary legislation in the Scottish Parliament but also in the UK Parliament and it has also involved the development and completion of two new registers at Registers of Scotland - the Register of Assignations and the Register of Statutory Pledges.

I wanted to let you know that the Act and all of the secondary legislation, will come into force on **1 April 2025**. At that time the Registers will also be open for business.

This means that from that date it will be possible for businesses of all sizes to use the new “fixed” security called a “statutory pledge” in respect of their moveable property, for example, vehicles, equipment such as plant and machinery, whisky, livestock, intellectual property and shares. The property which is the subject of the pledge will not require to be transferred to the creditor, as is the case under the existing law. Registration in a new Register of Statutory Pledges will be required for a statutory pledge to be created.

It will be possible to assign debts by way of registration in the new Register of Assignations, as opposed to having to intimate to debtors – although the option to intimate will remain. It will also be possible to assign future debts by registration.

Both registers will be online, electronic and maintained by the Registers of Scotland with the registers being searchable electronically.

Individual consumers are – save for in the context of pledging shares – excluded from Part 2 of the Act and we therefore expect searching of the registers by individuals will be *de minimis*. Nevertheless, someone may choose to search the new registers to, for example, check whether an item they wish to purchase is the subject of a statutory pledge. It’s worth stating that there is no obligation for an individual to carry out such a check and if they did not they would be protected under the Act if they have acted in good faith.

The provisions of the Act extend to sole traders acting in the course of their business. We understand that, such businesses may not as a matter of course engage with the legal profession when carrying out business transactions such as raising finance or selling debts.

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I therefore wanted to highlight that alongside the development and building of the registers, Registers of Scotland has also developed extensive guidance for users of the registers. The guidance is intended to be accessible and easy to understand and will shortly be available on the Registers of Scotland website.

<https://kb.ros.gov.uk/>

I hope this information is helpful to you and your organisation.

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