

Moveable Transactions (Scotland) Bill — Stage 3

Section 1

Tom Arthur

- 1 In section 1, page 1, line 14, leave out from <including> to end of line 16

Tom Arthur

- 2 In section 1, page 1, line 21, at end insert—
<() For the purposes of subsection (2), the ways in which the claim can be identified in the assignation document include by making reference in the assignation document to another document, the terms of which are not reproduced.>

Section 4

Tom Arthur

- 3 In section 4, page 4, leave out lines 1 and 2 and insert—
<() the assignor grants a trust deed for creditors or makes a composition or arrangement with creditors,>

Tom Arthur

- 4 In section 4, page 4, line 12, leave out <which includes the claim>

Tom Arthur

- 5 In section 4, page 4, line 18, leave out <or>

Tom Arthur

- 6 In section 4, page 4, line 23, leave out <(being a part which includes the claim)>

Tom Arthur

- 7 In section 4, page 4, line 24, at end insert <, or
<() the assignor becomes subject to any other order, appointment or arrangement analogous to any of those mentioned in sub-paragraphs (i) to (v) anywhere in the world.>

Section 13A

Tom Arthur

- 8 Leave out section 13A

Section 14

Tom Arthur

- 9 In section 14, page 11, line 1, leave out <or (5)> and insert <, (5) or (8)>

Tom Arthur

- 10 In section 14, page 11, line 2, after <(7)> insert <or (9)>

Section 31

Tom Arthur

- 11 In section 31, page 19, line 10, leave out subsection (4) and insert—
- <() But no fee is payable for a search of the assignments record which is carried out on behalf of an individual by a not-for-profit money adviser (being an adviser who does not charge individuals for the adviser's services).>

Section 33

Tom Arthur

- 12 In section 33, page 19, line 33, at end insert—
- <(2A) But if, on application under subsection (1), the applicant requests an extract as at a specific date and time, the Keeper need comply with the request only to the extent that it is reasonably practicable to do so.>

Tom Arthur

- 13 In section 33, page 19, line 38, after first <at> insert <—
- () in the case of an extract requested as mentioned in subsection (2A), the date and time to which the extract relates (being a date and time specified in the extract), and
- () in any other case,>

Section 34

Tom Arthur

- 14 In section 34, page 20, line 6, after <document,> insert—
- <() the registered assignee has granted a further assignment document in respect of the claim,>

Section 39

Tom Arthur

- 15 In section 39, page 24, line 4, leave out from first <or> to end of line 5

Section 43

Tom Arthur

- 16 In section 43, page 26, line 37, leave out <(3)> and insert <(4)>

Tom Arthur

- 17 In section 43, page 27, line 1, leave out from <or> to end of line 2

Section 43A

Tom Arthur

- 18 In section 43A, page 27, line 21, leave out subsection (2A)

Section 47

Tom Arthur

- 19 In section 47, page 29, leave out lines 24 and 25 and insert—
 <() the provider grants a trust deed for creditors or makes a composition or arrangement with creditors,>

Tom Arthur

- 20 In section 47, page 29, leave out lines 33 to 36

Tom Arthur

- 21 In section 47, page 29, line 39, leave out <which includes the property>

Tom Arthur

- 22 In section 47, page 30, line 5, leave out second <or>

Tom Arthur

- 23 In section 47, page 30, line 7, at end insert—
 <(v) an order under section 901F of the Companies Act 2006 sanctioning a compromise or arrangement entered into by the provider comes into effect over all or part of the property of the provider, or
 (vi) the provider becomes subject to any other order, appointment or arrangement analogous to any of those mentioned in sub-paragraphs (i) to (v) anywhere in the world.>

Section 56

Tom Arthur

- 24 In section 56, page 34, line 8, leave out subsections (5) and (6) and insert—

- <(5A) Where an amendment increases the extent of the statutory pledge—
- (a) the statutory pledge is amended to give effect to the increase only when the amendment is registered effectively (see section 90), and
 - (b) subject to any agreement to the contrary by the parties to the amendment document, any other amendments to the statutory pledge made by the amendment document also take effect at the time mentioned in paragraph (a).
- (5B) For the purposes of subsection (5A), an amendment increases the extent of the statutory pledge where—
- (a) the amendment adds property to the encumbered property, or
 - (b) both—
 - (i) the extent of the secured obligation is determinable from the terms alone of the entry for it in the statutory pledges record, and
 - (ii) the amendment increases that extent.>

Tom Arthur

- 25 In section 56, page 34, line 18, leave out <(4)> and insert <(4A)>

Tom Arthur

- 26 In section 56, page 34, line 20, leave out from <, or> to end of line 21

Section 76

Tom Arthur

- 27 In section 76, page 45, line 10, leave out <execution> and insert <enforcement>

Section 86

Tom Arthur

- 28 In section 86, page 48, line 13, leave out subsection (1) and insert—
- <() A secured creditor may apply to the Keeper for registration of an amendment to a statutory pledge to increase the extent of the statutory pledge within the meaning of section 56(5B).>

Section 102

Tom Arthur

- 29 In section 102, page 57, line 32, leave out subsection (4) and insert—
- <() But no fee is payable for a search of the statutory pledges record which is carried out on behalf of an individual by a not-for-profit money adviser (being an adviser who does not charge individuals for the adviser's services).>

Section 104

Tom Arthur

30 In section 104, page 58, line 20, at end insert—

<(2A) But if, on application under subsection (1), the applicant requests an extract as at a specific date and time, the Keeper need comply with the request only to the extent that it is reasonably practicable to do so.>

Tom Arthur

31 In section 104, page 58, line 25, after first <at> insert <—

() in the case of an extract requested as mentioned in subsection (2A), the date and time to which the extract relates (being a date and time specified in the extract), and

() in any other case,>

Section 111

Tom Arthur

32 In section 111, page 63, line 37, leave out <trustee or agent,>

Tom Arthur

33 In section 111, page 64, line 3, at end insert—

<() Where two or more persons are co-providers or co-secured creditors in relation to a statutory pledge, any reference in this Act to the provider or secured creditor (as the case may be) is, unless the context requires otherwise, a reference to all of those persons.>

Section 113A

Tom Arthur

34 Leave out section 113A and insert—

<Review of Act

(1) The Scottish Ministers must, as soon as reasonably practicable after the end of the review period—

(a) undertake a review of the operation of this Act, and

(b) prepare a report on that review.

(2) The report must, in particular, set out—

(a) an assessment of—

(i) the impact of allowing the debtor to waive the right to assert defences as provided for in section 13(1), and

(ii) how well the provisions regarding statutory pledges are working in relation to sole traders and small businesses, and

- (b) the steps (if any) that the Scottish Ministers propose to take as a result of the findings of the review.
- (3) The Scottish Ministers must, as soon as reasonably practicable after preparing the report—
 - (a) publish the report, and
 - (b) lay the report before the Scottish Parliament.
- (4) For the purposes of this section, “the review period” is the period of 5 years beginning with the day on which sections 1 and 40 come into force or, if they come into force on different days, the earlier of those days.>