

Moveable Transactions (Scotland) Bill

Equality Impact Assessment Record

May 2022

Equality Impact Assessment Record

Title of policy/ practice/ strategy/ legislation etc.	Moveable Transactions (Scotland) Bill	
Minister	Minister for Public Finance Planning and Community Wealth	
Lead official	Hamish Goodall	
Officials involved in the EQIA	name	team
	Sandra Jack	Private Law Unit
Directorate: Division: Team	Justice: Civil Law and Legal System: Private Law Unit	
Is this new policy or revision to an existing policy?	New	

Screening

Policy Aim

The Bill implements the recommendations of the Scottish Law Commission (SLC) in their Report on Moveable Transactions (No. 249), published in November 2017.

The aim of the Bill is to modernise and simplify the Scots law of moveable transactions. It will enable both businesses and individuals to use their assets to raise finance, by selling debts or by granting security over moveable property (such as plant and machinery, vehicles or intellectual property).

Moveable transactions law enables businesses and individuals to use their moveable property (i.e. property other than land and buildings) to access finance. It is a crucial part of commercial law.

The Bill:

- would make various types of commercial transactions more efficient, less expensive and less complicated than they currently are;
- would lead to greater access to finance for individuals and businesses in Scotland;
- would clarify the existing law, encouraging people and businesses in Scotland to use Scots law with confidence.

The Bill if implemented would contribute to two national framework outcomes:

Fair Work and Business: We have a thriving innovative businesses, with quality jobs and fair work for everyone.

Economy: We have a globally competitive, entrepreneurial, inclusive and sustainable economy.

Who will it affect?

The Bill will affect businesses, especially small businesses and sole traders and consumers (individuals) by providing an additional option to gain finance.

It is anticipated that reform would facilitate access to finance for Scottish businesses, particularly small businesses, thereby helping them reach their full economic potential. It could also reduce the cost of borrowing for Scottish businesses by enabling secured finance.

Current Scottish law is badly outdated, unclear, and unduly restrictive. It inhibits economic growth by making it harder for especially small businesses to get the finance they need.

- For example, Scotland is home to many intellectual property-rich enterprises in the food and drink, oil and gas, renewable technologies, IT, life sciences and creative sectors. It is difficult under the current law for such enterprises to raise working capital by using their intellectual property as security for a loan.

What might prevent the desired outcomes being achieved?

The aim of the policy is to enable both businesses and individuals to use their assets to raise finance, by selling debts or by granting security over moveable property. What will facilitate this is the setting up of two registers – the Register of Assignations and the Register of Statutory Pledges.

There is no evidence to suggest that there are issues which will prevent the desired outcomes being achieved. If the two Registers are not developed then the outcome would not be achieved.

The registration process will be an online automated service making it a simple process to register assignations and statutory pledges. If the process were to become burdensome then there would be reluctance to use it.

The Scottish Government is, however, working with the Registers of Scotland to ensure that the Registers are developed in a user friendly way and there are processes built in to accommodate individuals or businesses who do not have online access.

Stage 1: Framing

Results of framing exercise

A meeting was held with other members of the Private Law Unit to consider whether the Bill impacted of the protected groups. We concluded it would not be proportionate to make specific provision in relation to this point.

Extent/Level of EQIA required

Following the framing exercises, we believed that the level of EQIA needed was low as the degree of impact on the protected characteristics was minimal.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
Age	No evidence.	N/A	N/A
Disability	No evidence.	N/A	N/A
Sex	No evidence.	N/A	N/A
Pregnancy and Maternity	No evidence.	N/A	N/A
Gender reassignment	No evidence.	N/A	N/A
Sexual orientation	No evidence.	N/A	N/A
Race	No evidence.	N/A	N/A
Religion or belief	No evidence.	N/A	N/A
Marriage and Civil Partnership (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR	No evidence.	N/A	N/A

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

policies and practices - refer to Definitions of Protected Characteristics document for details)			
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Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does not directly or indirectly address discrimination, harassment or victimisation.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations among and between different age groups			X	The Bill does not directly or indirectly promote good relations within different age groups.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does

				not directly or indirectly address discrimination, harassment or victimisation of disabled people.
Advancing equality of opportunity			X	The policy does not make any direct or indirect impact of the advancing equality of opportunity.
Promoting good relations among and between disabled and non-disabled people			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does not directly or indirectly promote good relations between disabled and non-disabled people.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does not directly or indirectly address discrimination.
Advancing equality of opportunity			X	Raising finance against moveable assets is not gender specific.
Promoting good relations between men and women			X	The Bill does not directly or indirectly address relations between men and women.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does not directly or indirectly address discrimination against women because of pregnancy and maternity.
Advancing equality of opportunity			X	The policy does not directly or indirectly address equality of opportunity in terms of pregnancy and maternity.
Promoting good relations			X	There is no evidence that the Bill would directly or indirectly promote good relations.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does not directly or indirectly address discrimination against transsexual people.
Advancing equality of opportunity			X	The policy does not directly or indirectly address equality of opportunity for

				transgender individuals.
Promoting good relations			X	The Bill does not make any direct or indirect impact in promoting good relations.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. It does not directly or indirectly address discrimination on grounds of sexual orientation.
Advancing equality of opportunity			X	The policy does not directly or indirectly advance equality of opportunity in terms of sexual orientation.
Promoting good relations			X	The policy does not directly or indirectly impact on sexual orientation. It does not directly or indirectly promote good relations.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The Bill does not make any direct or indirect impact on this protected characteristic.
Advancing equality of opportunity			X	The Bill does not directly or indirectly advance equality of

				opportunity in terms of race.
Promoting good race relations			X	The Bill does not promote good race relations.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. So there is no indirect impact of this protected characteristic.
Advancing equality of opportunity			X	The policy does not directly or indirectly address equality of opportunity in relation to religion or belief.
Promoting good relations			X	The policy aim is to make access to raising finance against moveable assets easier by the introduction of two Registers. So there is no indirect impact on this protected characteristic

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The Bill does not make any direct or indirect impact on marriage or civil partnership.

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	No
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Not applicable
If not justified, what mitigating action will be undertaken?	Not applicable

Describing how Equality Impact analysis has shaped the policy making process

The EQIA process has confirmed that the proposed Bill has no impact on any of the protected characteristics.

Given that no positive or negative impacts have been identified, no direct changes have been made to the policy as a result of this EQIA.

There are no direct implications for finance as a result of this EQIA.

³ See EQIA – Setting the Scene for further information on the legislation.

Monitoring and Review

If the Bill is passed by Parliament, the Government will monitor their impact and consider any representations made on the impact of the legislation in practice.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Moveable Transactions (Scotland) Bill and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Denise Swanson

Position: Interim Deputy Director

Authorisation date: 30/11/2021



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