Moveable Transactions (Scotland) Bill

Islands Communities Impact Assessment

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Scottish Government
Riaghaltas na h-Alba
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Step One – Develop a clear understanding of your Objectives

<u>What are the objectives of the policy, strategy or service?</u>

This Bill aims to implement the Scottish Law Commission (SLC) report on moveable transactions to make it easier for small and medium size businesses to raise finance and to bring current law up to date and more into line with modern practice in other jurisdictions. Moveable transactions law enables businesses and individuals to use their moveable property (i.e. property other than land and buildings) to access finance by:

- Assignation of debt owing to them, for example invoices.
- Granting security over corporeal moveable property (Such as vehicles, equipment, whisky or livestock) and certain incorporeal moveable property specifically financial instruments (such as shares) and intellectual property.

The Bill will require the creation of two new registers: the Register of Assignations and the Register of Statutory Pledges which will be held and maintained by Registers of Scotland.

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

<u>Do you need to consult?</u>

No. The SLC whilst preparing their report and draft Bill issued a discussion paper and set up an advisory board. It was considered due to the technical nature of the Bill that a public consultation would not provide any additional value which had not already been expressed through the SLC's consultation exercises.

<u>How are islands identified for the purpose of the policy, strategy or service?</u>

The islands are not specifically identified for the policy. They have been identified due to the SLC using whisky distilleries as an example of a type of business which may benefit from the provisions, to access finance by using their moveable property ie. whisky barrels as collateral. The policy impacts beyond the islands and includes mainland Scotland. It is however recognised that island communities as a whole benefit from the wide impact a distillery business generates. Any business may benefit if they have moveable assets to use as collateral to raise finance. The policy allows for greater access to finance for individuals and businesses in Scotland**.**

<u>What are the intended impacts / outcomes and how do these potentially differ in the islands?</u>

The proposed legislation will provide for a cheaper and easier means for businesses, including small businesses, and individuals to raise finance using their moveable property assets. A business could potentially raise finance by way of a statutory pledge using its moveable property. For example access to finance could assist a distillery to expand or provide a lifeline where cash flow is a problem. The impact on the islands is far more reaching compared to the mainland due to the smaller community.

The policy may impact differentially on island communities on the basis of the volume of businesses that elect to engage with the new provisions in order to obtain finance, however, this circumstance is not a consequence of The Bill itself and as such it is not possible to mitigate for this scenario.

Is the policy, strategy or service new?

Yes this is a new policy. It is to make it easier for small and medium size businesses to raise finance and to bring current law up to date and more into line with modern practice in other jurisdictions.

Step two – Gather your data and identify your stakeholders

What data is available about the current situation in the islands?

The Scottish Whisky Association (SWA) provide statistics about the whisky industry. They, however, do not break these down to attribute their statistics to identify between mainland and the Islands distilleries. According to SWA website their latest statistics cover Jan-Dec 2020 there are 134 distilleries across Scotland. Information from a key stakeholder on the islands indicated that there are currently 22 whisky distilleries on the islands - so that would make the remaining distilleries around 112 on the mainland from SWA figures.

Do you need to consult?

No. We do not see a need to establish the impact of this new policy on islands. It is a financial service which is voluntary to any individuals or businesses who wish to access finance by utilising moveable assets/collateral. The SLC report said that when they set out their proposals to the Scotch Whisky Association it consulted its members on the Bill. It subsequently informed the SLC that it believed “in principle, that the proposals would be of benefit to the Scotch Whisky industry”

How does any existing data differ between islands?

Do not consider that this is required or relevant.

Are there any existing design features or mitigations in place?

Again, the policy is no different between the island community and the rest of Scotland. It will be up to the individuals/businesses on whether they wish to raise finance by using the new registers which will make it easier and cheaper to do so.

Step three – Consultation

Who do you need to consult with?

Not applicable

Step four - Assessment

Does your assessment identify any unique impacts on island communities?

No. There is no unique impact on island communities.

Does your assessment identify any potential barriers or wider impacts?

Do not consider there are any potential barriers.

How will you address these?

Not applicable

You must now determine whether, in your opinion, your policy, strategy or service is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities).

No. As previously stated due to the volume of whisky distilleries on the Islands this policy can have a positive impact on these businesses in making it easier to raise finance if they have the need to do so.

If your answer is No to the above question, a full ICIA will NOT be required and you can proceed to Step Six

Step six – Making adjustments to your work

Not applicable.

Step seven – Publishing your ICIA

Not applicable.

Declaration

ICIA Completed by: Hamish Goodall
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Date Completed: December 2021

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Date Completed: January 2022

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