



Moveable Transactions (Scotland) Act 2023

2023 asp 3

PART 1

ASSIGNATION

CHAPTER 1

ASSIGNATION OF CLAIMS, PROTECTION OF DEBTORS AND RELATED MATTERS

Assignment of claims

PROSPECTIVE

4 **Assignment of claims: insolvency**

- (1) **This section** applies where—
 - (a) an assignment document is granted in respect of a claim such as is mentioned in **section 1(4)**, and
 - (b) after the document is granted, the assignor becomes insolvent.
- (2) The assignment is ineffective in relation to the claim if the assignor becomes the holder of the claim after becoming insolvent.
- (3) But **subsection (2)** does not apply in relation to a claim in respect of income from property in so far as that claim—
 - (a) is not attributable to anything agreed to by, or done by, the assignor after the assignor became insolvent, and
 - (b) relates to the use of property in existence at the time the assignor became insolvent.
- (4) **Subsection (5)** applies where—

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 4. (See end of Document for details)

- (a) but for [subsection \(3\)](#), the assignment would be ineffective by virtue of [subsection \(2\)](#), and
 - (b) the assignor is discharged—
 - (i) under section 137, 138 or 140 of the Bankruptcy (Scotland) Act 2016, or
 - (ii) by virtue of section 184(3) of that Act.
- (5) The assignment is ineffective, in relation to the claim, if by the time of discharge the assignor has not become the holder of the claim.
- (6) For the purposes of [this section](#)—
- (a) an assignor who is an individual, or the estate of which may be sequestrated by virtue of section 6 of the Bankruptcy (Scotland) Act 2016, becomes insolvent when—
 - (i) the assignor’s estate is sequestrated,
 - (ii) the assignor grants a trust deed for creditors or makes a composition or arrangement with creditors,
 - (iii) the assignor is adjudged bankrupt,
 - (iv) a voluntary arrangement proposed by the assignor is approved,
 - (v) the assignor’s application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002, or
 - (vi) the assignor becomes subject to any other order or arrangement analogous to any of those mentioned in [sub-paragraphs \(i\) to \(v\)](#) anywhere in the world, and
 - (b) an assignor other than is mentioned in [paragraph \(a\)](#) becomes insolvent when—
 - (i) a decision approving a voluntary arrangement entered into by the assignor has effect under section 4A of the Insolvency Act 1986 (the “1986 Act”),
 - (ii) the assignor is wound up under Part 4 or 5 of the 1986 Act or under section 367 of the Financial Services and Markets Act 2000,
 - (iii) an administrative receiver, as defined in section 251 of the 1986 Act, is appointed over all or part (being a part which includes the claim) of the property of the assignor,
 - (iv) the assignor enters administration (“enters administration” being construed in accordance with paragraph 1(2) of schedule B1 of the 1986 Act),
 - (v) an order under section 901F of the Companies Act 2006 sanctioning a compromise or arrangement entered into by the assignor comes into effect over all or part of the property of the assignor, or
 - (vi) 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.
- (7) The Scottish Ministers may by regulations modify—
- (a) [subsection \(4\)](#),
 - (b) [subsection \(5\)](#),
 - (c) [subsection \(6\)](#).

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 4. (See end of Document for details)

Commencement Information

II S. 4 not in force at Royal Assent, see [s. 121\(2\)](#)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Moveable Transactions (Scotland) Act 2023, Section 4.