
STATUTORY INSTRUMENTS

2018 No. 1254

The Business Contract Terms (Assignment of Receivables) Regulations 2018

Other exceptions

4. Regulation 2 does not apply to a term in a contract which is—
- (a) a contract for, or entered into in connection with, prescribed financial services;
 - (b) a contract which concerns any interest in land;
 - (c) a contract where one or more of the parties to the contract is acting for purposes which are outside a trade, business or profession;
 - (d) a contract where none of the parties to the contract has entered into it in the course of carrying on a business in the United Kingdom;
 - (e) a contract which concerns national security interests (and a certificate provided by the Secretary of State to the effect that a contract concerns national security interests shall be conclusive evidence of that fact);
 - (f) a contract where one or more parties to the contract is a person designated as a counterparty for a contract for difference under section 7 of the Energy Act 2013⁽¹⁾ and who has entered into the contract by virtue of that Act;
 - (g) a petroleum licence;
 - (h) a contract where one or more parties to the contract is the licensee in respect of a petroleum licence whose terms would prohibit or restrict the assignment of receivables under that contract;
 - (i) a contract which is entered into for the purposes of, or in connection with, the acquisition, disposal or transfer of an ownership interest in a firm, wherever it is incorporated or established, or of a business or undertaking or part of a business or undertaking, and which includes a statement to that effect;
 - (j) an option, future, swap, forward, contract for differences or other derivatives contract, not falling within paragraph (a), which may be settled physically or in cash, relating to commodities, energy, emission allowances, climactic variables, freight rates or inflation rates or other official economic statistics that is either—
 - (i) traded on a regulated market, multilateral trading facility or organised trading facility, or
 - (ii) is not traded on a regulated market, multilateral trading facility or organised trading facility, but is entered into under a market agreement providing for close-out netting, and “regulated market”, “multilateral trading facility” and “organised trading facility” have the same meaning as in Article 4(1) of [Directive 2014/65/EU](#) of the European

(1) 2013 c. 32.

Parliament and of the Council of 15 May 2014 on Markets in Financial Instruments (recast)(2);

- (k) a contract entered into by the project company of a project which is—
 - (i) a public-private partnership project;
 - (ii) a utility project;
 - (iii) a financed project; or
 - (iv) designed wholly or mainly to develop land which at the commencement of the project is wholly or partly in a designated disadvantaged area outside Northern Ireland,
 and expressions used in this sub-paragraph which are also used in Chapter 4 of Part 3 of the Insolvency Act 1986(3) have the meaning given in that Chapter, except that “company” includes a firm, wherever it is incorporated or established;
- (l) a contract entered into by a trust, fund or other entity, or an arrangement entered, created by or on behalf of a site operator (within the meaning in the Energy Act 2008(4)) to hold and accumulate assets under the terms of a funding arrangements plan that is part of a funded decommissioning programme submitted to the Secretary of State for approval under section 45 of that Act; or
- (m) a contract, not falling within paragraph (a), entered into wholly or mainly for the purpose of granting by one person of a right to possession or control of an object to another person in return for a rental or other payment.

(2) OJNo. L173 12.06.2014, p. 349. The Directive was amended by Regulation (EU) No. 909/2014 of the European Parliament and of the Council of 23 July 2014 (OJ No. L257, 28.08.2014, p.1) and [Directive 2016/1034/EU](#) of the European Parliament and of the Council of 23 June 2016 (OJ No. L175 30.06.2016, p. 8).

(3) 1986 c. 45. Chapter 4 of Part 3 was inserted by the Enterprise Act 2002 (c. 40), section 250.

(4) 2008 c. 32. See section 68.