

End of the Ban on Assignment – Stop Press!



An important legislative change will hopefully enable greater access to invoice finance in 2019. The Business Contract Terms (Assignment of Receivables) Regulations 2018 have been approved by Parliament and render invalid any term in a contract entered into on or after 31st December 2018 which “prohibits or imposes a condition, or other restriction, on the assignment of a receivable arising under that contract or any other contract between the same parties.”

Whilst the new law is not retrospective and won't apply to contracts entered into before 31st December 2018, it is nonetheless very good news for business given that a recent Impact Assessment carried out by the Department for Business, Energy and Industrial Strategy estimated that the change will enable up to £800m of additional funding to be made available to current users of invoice financing products, and between £100m and £150m of new funding to become available to new invoice finance clients. Hopefully the new Regulations will provide a lifeline for businesses with book debts affected by non-assignment clauses and cash flow problems.

The new Regulations apply to B2B contracts only and will have no impact on consumer transactions. Financial services and certain other contracts are also excluded to ensure the measures are focused on trade receivables rather than specific financial instruments or products that require assignment to be restricted.

For invoice financiers the new Regulations will mean that invoices assigned by a client will no longer be affected by a non-assignment clause contained in the contract made between the client and his customer. This will avoid the need to obtain a waiver from the customer (thereby disclosing the existence of the factoring arrangement) and should increase the amount of funding made available to clients as there will no longer be any need to mitigate the risk of loss arising out of non-assignment clauses.

Importantly, the change should reduce the cost of collecting debts as, having been given notice of assignment by



the invoice financier, customers will no longer be able to discharge their payment obligations by making payment direct to the factor's client.

Whilst the new Regulations don't apply to all enterprises or contracts, they do represent a very significant and welcome step in the right direction for businesses seeking access to finance, particularly in sectors such as construction.

If you require any further advice, please contact our [corporate team](#).



[Noel Ruddy](#)

Partner