

Snapshot: can you assign a chose in action in BVI law?

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A chose in action means a property right or the right to possession of something that can only be obtained or enforced through legal action - it's an 'intangible', for example, a receivable, a right to recover money or a debt.

BVI statute does not currently provide for the legal assignment of a chose in action governed by BVI law and does not have an equivalent of Section 136 of the English Law of Property Act, 1925. As a consequence of this, any assignment of a chose in action will take effect as an equitable assignment only, regardless of whether notice is given by the assignor to the counterparty.

Where a chose in action is governed by BVI law and has been assigned in equity, if the assignee wishes to sue under the assigned contract it would be required to do so either with the assignor as a co-claimant or by adjoining the assignor as a defendant to any such claim.

For the reasons given above, it is common in the BVI for a chose in action to be transferred by way of novation rather than by way of assignment.

For more information on this topic, please contact our BVI banking and finance team.

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