



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

[^{F1}CHAPTER 3

SPECIAL RESOLUTION ACTION]

Transfer of property

34 Effect

- (1) In this section “transfer” means a transfer provided for by a property transfer instrument.
- (2) A transfer takes effect by virtue of the instrument (and in accordance with its provisions as to timing or other ancillary matters).
- (3) A transfer takes effect despite any restriction arising by virtue of contract or legislation or in any other way.
- (4) In subsection (3) “restriction” includes—
 - (a) any restriction, inability or incapacity affecting what can and cannot be assigned or transferred (whether generally or by a particular person), and
 - (b) a requirement for consent (by any name).
- (5) A property transfer instrument may provide for a transfer to be conditional upon a specified event or situation—
 - (a) occurring or arising, or
 - (b) not occurring or arising.

Changes to legislation: *Banking Act 2009, Section 34 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (6) A property transfer instrument may include provision dealing with the consequences of breach of a condition imposed under subsection (5); and the consequences may include—
- (a) automatic vesting in the original transferor;
 - (b) an obligation to effect a transfer back to the original transferor, with specified consequences for failure to comply (which may include provision conferring a discretion on a court or tribunal);
 - (c) provision making a transfer or anything done in connection with a transfer void or voidable.
- (7) Where a property transfer instrument makes provision in respect of property held on trust (however arising) it may also make provision about—
- (a) the terms on which the property is to be held after the instrument takes effect^{F1} ..., and
 - (b) how any powers, provisions and liabilities in respect of the property are to be exercisable or have effect after the instrument takes effect.
- [^{F2}(8) Provision under subsection (7)(a) may remove or alter the terms of the trust on which the property is held only to the extent that the Bank of England thinks it necessary or expedient for the purpose of transferring—
- (a) the legal or beneficial interest of the transferor in the property;
 - (b) any powers, rights or obligations of the transferor in respect of the property.
- (9) In subsection (8) references to the transferor are references to the transferor under the property transfer instrument.]

Textual Amendments

- F1** Words in s. 34(7)(a) omitted (1.1.2015) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 98\(2\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2014/3323](#), [art. 2](#)
- F2** S. 34(8)(9) inserted (1.1.2015) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 98\(3\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2014/3323](#), [art. 2](#)
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Commencement Information

- I1** S. 34 in force at 21.2.2009 by [S.I. 2009/296](#), [art. 3](#), [Sch. para. 1](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)