



# Property Services Agency and Crown Suppliers Act 1990

## 1990 CHAPTER 12

An Act to make provision for the transfer of the Crown services known as the Property Services Agency and the Crown Suppliers; and for connected purposes. [29th June 1990]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Transfer of Property Services Agency and Crown Suppliers**

- (1) The Secretary of State may make a scheme or schemes which provide for the transfer to any person or persons of such property, rights and liabilities as are specified in or determined in accordance with the scheme, being property, rights or liabilities—
  - (a) to which a Minister of the Crown (or in the case of copyright Her Majesty) is entitled or subject immediately before the day on which the scheme providing for the transfer comes into force; and
  - (b) which then subsisted for the purposes of or in connection with or are otherwise attributable (wholly or partly) to either of the Crown services known respectively as the Property Services Agency and the Crown Suppliers.
- (2) Without prejudice to the generality of paragraph (b) of subsection (1) above any property, rights or liabilities shall be taken to fall within that paragraph so far as relating to the Property Services Agency or, as the case may be, to the Crown Suppliers if the Secretary of State issues a certificate to that effect.
- (3) A scheme under this section may confer or impose such rights and liabilities as appear to the Secretary of State to be requisite for the purpose of converting into a contract between a transferee under the scheme and a Minister of the Crown any arrangement existing immediately before the coming into force of the scheme under which goods

or services are being, or are to be, provided for that Minister as part of either of the services mentioned in subsection (1)(b) above.

- (4) In subsection (3) above references to a Minister of the Crown include references to a Northern Ireland department.
- (5) A scheme under this section may apply to property wherever situated and to property, rights and liabilities whether or not capable of being transferred or assigned by a Minister of the Crown or, as the case may be, by Her Majesty.
- (6) A scheme under this section shall come into force on such day as may be specified for that purpose in the scheme; and on that day the property, rights and liabilities to which the scheme applies shall be transferred and vest in accordance with the scheme.
- (7) A scheme under this section may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient; and the Schedule to this Act shall have effect in relation to any such scheme.

## **2 Transferred staff**

- (1) No scheme under section 1 above shall provide for the transfer of any rights or liabilities relating to a person's employment.
- (2) Where by reason of the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 in relation to the transfer of any such property, rights or liabilities as are mentioned in section 1(1) above a person ceases to be employed in the civil service of the State and becomes employed by a transferee—
  - (a) he shall not, on so ceasing, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having retired on redundancy; and
  - (b) his ceasing to be employed in that service shall not be regarded as an occasion of redundancy for the purpose of the agreed redundancy procedures applicable to persons employed in that service.

## **3 Transferee companies**

- (1) The person or persons to whom anything is transferred by a scheme under section 1 above may be or include one or more companies ("transferee companies") formed or acquired by the Secretary of State for that purpose.
- (2) Subject to subsections (4) and (5) below, the Secretary of State may—
  - (a) subscribe for or otherwise acquire shares in or securities of a transferee company, or rights to subscribe for such shares or securities;
  - (b) from time to time by a direction given to a transferee company require it to issue to him such shares or securities as are specified in the direction;
  - (c) make loans to a transferee company on such terms and conditions as he may determine.
- (3) A direction under subsection (2)(b) above may require any shares to which it relates to be issued as fully or partly paid up.
- (4) The Secretary of State shall not subscribe for or otherwise acquire shares in or securities of a transferee company, or rights to subscribe for such shares or securities,

unless all the company's issued shares are to be held by or on behalf of the Crown and shall not at any time give a direction or make a loan to a transferee company under subsection (2) above unless all its issued shares are then held as aforesaid.

- (5) The Secretary of State shall not exercise any of the powers conferred by the foregoing provisions in this section or dispose of any shares in or securities of a transferee company without the consent of the Treasury.
- (6) If the articles of association of a transferee company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may be borrowed or raised by the company during any period, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment.
- (7) For the purposes of subsection (6) above there shall be disregarded any alteration of the articles of association of a transferee company which has the effect of conferring or extending any such power as is mentioned in that subsection and is made at a time when the issued shares in the company are no longer all held by or on behalf of the Crown.

#### **4 Winding up of Crown Suppliers trading fund**

- (1) The Secretary of State may with the consent of the Treasury by order—
  - (a) extinguish to such extent as may be specified in the order all or any of the liabilities which subsist in respect of—
    - (i) the public dividend capital designated in respect of the trading fund of the Crown Suppliers under section 2(2) of the Government Trading Funds Act 1973; or
    - (ii) the principal of any loan made, or treated as made, to the fund under section 2(2) or (3) of that Act;
  - (b) repeal section 1(3)(e) of that Act (by virtue of which that fund was established).
- (2) Where liabilities are extinguished by an order under subsection (1)(a) above the assets of the Consolidated Fund or, as the case may be, of the National Loans Fund shall be reduced by amounts corresponding to the liabilities extinguished.
- (3) An order under subsection (1)(b) above may contain such supplementary, incidental, consequential or transitional provisions relating to the winding up of the trading fund as appear to the Secretary of State, after consulting the Treasury, to be necessary or expedient.
- (4) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### **5 Expenses and receipts**

- (1) Any sums required by the Secretary of State for making payments or for defraying his administrative expenses under this Act shall be paid out of money provided by Parliament.

- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund or the National Loans Fund, or partly into one and partly into the other, as the Treasury may direct.

**6 Short title and extent**

- (1) This Act may be cited as the Property Services Agency and Crown Suppliers Act 1990.
- (2) This Act extends to Northern Ireland.

## SCHEDULES

Section 1(7).

### TRANSFER SCHEMES: SUPPLEMENTARY PROVISIONS

#### *Certificate of vesting*

- 1 A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme under section 1 of this Act shall be conclusive evidence for all purposes of that fact.

#### *Construction of agreements etc.*

- 2 (1) This paragraph applies to any agreement made, transaction effected or other thing (not contained in an enactment) which—
- (a) has been made, effected or done by, to or in relation to a transferor under a scheme under section 1 of this Act;
  - (b) relates to any property, right or liability transferred from the transferor in accordance with the scheme; and
  - (c) is in force or effective immediately before the day on which the scheme comes into force.
- (2) The agreement, transaction or other thing shall have effect on and after that day as if made, effected or done by, to or in relation to the corresponding transferee under the scheme.
- (3) Accordingly, references to the transferor which relate to or affect any property, right or liability of the transferor vesting by virtue of the scheme in the transferee and which are contained—
- (a) in any agreement (whether or not in writing), deed, bond or instrument;
  - (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court or other tribunal or authority; or
  - (c) in any other document whatever (other than an enactment) relating to or affecting any property, right or liability of the transferor which vests by virtue of the scheme in the transferee,
- shall be taken on and after that day to refer to the transferee concerned.
- (4) In this paragraph “transferee” and “transferor”, in relation to a scheme, mean respectively a person to whom, and one from whom, a scheme provides for a transfer.

#### *Stamp duty*

- 3 Stamp duty shall not be chargeable on any instrument which is certified to the Commissioners of Inland Revenue by the Secretary of State as being a scheme under section 1 of this Act (or as having been made or executed in pursuance of such a scheme) and as effecting a transfer of property, rights or liabilities to a company all the issued shares in which are held by or on behalf of the Crown; but no such instrument shall be taken to be duly stamped unless—
- (a) it is stamped with the duty to which it would but for this paragraph be liable; or
  - (b) it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.