



Export and Investment Guarantees Act 1991

1991 CHAPTER 67

PART II

TRANSFER OR DELEGATION OF ECGD FUNCTIONS

8 Scheme of transfer

- (1) The Secretary of State may make a scheme or schemes 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 the Secretary of State (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 the exercise of functions under Part I of this Act or the old law.
- (2) Without prejudice to the generality of subsection (1)(b) above, any property, rights or liabilities shall be taken to fall within that subsection if the Secretary of State issues a certificate to that effect.
- (3) A scheme under this section may apply—
 - (a) to property wherever situated, and
 - (b) to property, rights and liabilities whether or not otherwise capable of being transferred or assigned by the Secretary of State or, as the case may be, Her Majesty.
- (4) A scheme under this section shall come into force on such day as may be specified in, or determined in accordance with, 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.

Status: This is the original version (as it was originally enacted).

- (5) 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.
- (6) The Schedule to this Act (scheme of transfer: supplementary provisions) shall have effect.
- (7) References below in this Act to a transferee are to any person to whom anything is transferred by virtue of a scheme under this section.

9 Transferred staff

- (1) No scheme under section 8 of this Act shall provide for the transfer of any rights or liabilities relating to a person's employment, but the Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply to the transfer of property, rights or liabilities by virtue of such a scheme whether or not the transfer would, apart from this subsection, be a relevant transfer for the purposes of those regulations.
- (2) Where, by reason of the operation of those regulations in relation to a transfer of property, rights or liabilities by virtue of such a scheme, 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 purposes of the agreed redundancy procedures applicable to persons employed in that service.

10 Vehicle companies

- (1) In this section “vehicle company” means a company formed or acquired for the purpose of—
 - (a) becoming a transferee, or
 - (b) holding shares in a company formed or acquired for that purpose.
- (2) Subject to subsections (3) and (4) below, the Secretary of State may—
 - (a) subscribe for or otherwise acquire shares in or securities of a vehicle company, or acquire rights to subscribe for such shares or securities,
 - (b) by a direction given to a company formed or acquired for the purpose of becoming a transferee require it, in consequence of the transfer by virtue of a scheme under section 8 of this Act of property, rights or liabilities, to issue to him, or to such other person as may be specified in the direction, such shares or securities as may be so specified,
 - (c) from time to time by a direction given to a vehicle company require it to issue to him, or to such other person as may be specified in the direction, such shares or securities as may be so specified, or
 - (d) make loans to a vehicle company on such terms and conditions as he may determine.
- (3) A direction under subsection (2)(b) or (c) 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—

- (a) subscribe for or otherwise acquire shares in or securities of a vehicle company, or acquire rights to subscribe for such shares or securities, unless all the relevant shares are to be held by or on behalf of the Crown, or
 - (b) at any time give a direction or make a loan to a vehicle company unless all the relevant shares are then held by or on behalf of the Crown.
- (5) For the purposes of subsection (4) above—
- (a) shares are held by or on behalf of the Crown where the Crown or any person acting on behalf of the Crown has a legal interest in them; and
 - (b) “relevant shares”, in relation to a vehicle company, means the issued shares of that company or, if it is a subsidiary of another vehicle company, the issued shares of that other company.
- (6) A scheme under section 8 of this Act may, as between any vehicle companies or as between a vehicle company and the Secretary of State, confer or impose rights and liabilities in connection with any of the matters as to which the Secretary of State may exercise his powers under this Act.
- (7) The Secretary of State shall not exercise any of the powers conferred by the preceding provisions of this section or dispose of any shares in or securities of a vehicle company without the consent of the Treasury.

11 Reinsurance

- (1) The Secretary of State may make arrangements with any transferee under which the transferee insures the Secretary of State against risks of losses arising in consequence of arrangements made, before the day on which any scheme under section 8 of this Act comes into force, under Part I of this Act or the old law.
- (2) The Secretary of State shall from time to time determine, in relation to such classes of risk determined by him as might be insured by him under section 1 of this Act, whether it is expedient in the national interest for him to exercise his powers under that section to make arrangements for reinsuring persons providing insurance for risks of that class.
- (3) This section is without prejudice to any power of the Secretary of State under Part I of this Act.

12 Delegation of assistance function

- (1) The Secretary of State may make arrangements for any of the functions to which this section applies to be exercised on his behalf by any transferee or any other person, instead of through the Export Credits Guarantee Department, on such terms and conditions as he may determine.
- (2) This section applies to the power of the Secretary of State to make arrangements under section 1 of this Act and to any functions of his under arrangements so made, or arrangements under the old law, including, so far as relating to any such arrangements, arrangements made by virtue of section 3(4) of this Act.
- (3) This section does not affect any requirement for the consent of the Treasury.