



Infrastructure Act 2015

2015 CHAPTER 7

PART 5

PLANNING, LAND AND BUILDINGS

The Homes and Communities Agency and other bodies

VALID FROM 12/04/2015

31 Property etc transfers to the HCA and the GLA

- (1) The Housing and Regeneration Act 2008 is amended in accordance with subsections (2) to (4).
- (2) After section 53 (and after the italic heading before section 54) insert—

“53A Other property etc transfers to the HCA

- (1) The Secretary of State may at any time make one or more schemes for the transfer to the HCA of designated property, rights or liabilities of a specified public body.
- (2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.
- (3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (4) Schedule 6 applies to a scheme under this section.

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- (5) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.
- (6) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).
- (7) In this section—
 - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
 - “public body” means a person or body with functions of a public nature.
- (8) This section and section 53B bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to—
 - (a) Her Majesty in right of the Crown,
 - (b) Her Majesty in right of Her private estates,
 - (c) Her Majesty in right of the Duchy of Lancaster, or
 - (d) the Duchy of Cornwall.
- (9) The reference in subsection (8) to Her Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

53B Tax consequences of transfers under section 53A

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—
 - (a) any property, rights or liabilities transferred in accordance with a transfer scheme under section 53A, or
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.
- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
 - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.
- (3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—

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- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.
- (4) In this section—
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;
 - “tax provision” means a provision of an enactment about a relevant tax.
- (5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme under section 53A include references to—
- (a) the creation of interests, rights or liabilities under the scheme, and
 - (b) the modification of interests, rights or liabilities under the scheme, (and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”
- (3) In section 51 (property etc transfers) after subsection (3) insert—
- “(3A) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”
- (4) In section 320 (orders and regulations)—
- (a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after paragraph (c) insert—
 - “(ca) regulations under section 53A(2),” and
 - (b) after that subsection insert—
 - “(7A) An instrument containing regulations under section 53B is subject to annulment in pursuance of a resolution of the House of Commons.”
- (5) The Greater London Authority Act 1999 is amended in accordance with subsections (6) to (9).
- (6) After section 333D insert—
- “333DA Transfer schemes**
- (1) The Secretary of State may at any time make one or more schemes for the transfer of designated property, rights or liabilities of a specified public body to—
 - (a) the Authority, or

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(b) a company or body through which the Authority exercises functions in relation to housing or regeneration.

- (2) In subsection (1) “specified public body” means a public body which is for the time being specified, or of a description specified, by regulations made by the Secretary of State.
- (3) On the date specified by a scheme as the date on which the scheme is to have effect, the designated property, rights or liabilities are transferred and vest in accordance with the scheme.
- (4) The Secretary of State may not make a scheme under this section unless the specified public body to which the scheme relates has consented to its provisions.
- (5) A scheme under this section may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).
- (6) In this section—
 - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
 - “public body” means a person or body with functions of a public nature.
- (7) This section and sections 333DB and 333DC bind the Crown, but do not have effect in relation to property, rights or liabilities belonging to—
 - (a) Her Majesty in right of the Crown,
 - (b) Her Majesty in right of Her private estates,
 - (c) Her Majesty in right of the Duchy of Lancaster, or
 - (d) the Duchy of Cornwall.
- (8) The reference in subsection (7) to Her Majesty's private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

333DB Further provisions about transfer schemes

- (1) A transfer scheme may—
 - (a) create for the transferor interests in, or rights over, property transferred by virtue of the scheme,
 - (b) create for a transferee interests in, or rights over, property retained by the transferor or transferred to another transferee,
 - (c) create rights or liabilities between the transferor and a transferee or between transferees.
- (2) A transfer scheme may provide for the transfer of property, rights or liabilities that would not otherwise be capable of being transferred or assigned.
- (3) In particular, a transfer scheme may provide for the transfer to take effect regardless of a contravention, liability or interference with an interest or right

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that would otherwise exist by reason of a provision having effect in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

- (4) It does not matter whether the provision referred to in subsection (3) has effect under an enactment or an agreement or in any other way.
- (5) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a transfer scheme is conclusive evidence for all purposes of that fact.
- (6) A transfer scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.
- (7) A transfer by virtue of a transfer scheme does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.
- (8) Anything which—
 - (a) is done by the transferor for the purposes of, or otherwise in connection with, anything transferred by virtue of a transfer scheme, and
 - (b) is in effect immediately before the transfer date,is to be treated as done by the transferee.
- (9) There may be continued by or in relation to the transferee anything (including legal proceedings)—
 - (a) which relates to anything transferred by virtue of a transfer scheme, and
 - (b) which is in the process of being done by or in relation to the transferor immediately before the transfer date.
- (10) Subsection (11) applies to any document—
 - (a) which relates to anything transferred by virtue of a transfer scheme, and
 - (b) which is in effect immediately before the transfer date.
- (11) Any references in the document to the transferor are to be read as references to the transferee.
- (12) A transfer scheme may include supplementary, incidental, transitional and consequential provision.
- (13) In this section—
 - “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;
 - “transfer scheme” means a transfer scheme under section 333DA;
 - “transfer date” means a date specified by a transfer scheme as the date on which the scheme is to have effect.

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333DC Tax consequences of transfers under section 333DA

- (1) The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—
 - (a) any property, rights or liabilities transferred in accordance with a transfer scheme, or
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities in accordance with such a transfer scheme.

- (2) The provision that may be made under subsection (1)(a) includes, in particular, provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;
 - (b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.

- (3) The provision that may be made under subsection (1)(b) includes, in particular, provision for—
 - (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;
 - (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or be treated in a specified way;
 - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.

- (4) In this section—
 - “enactment” includes subordinate legislation within the meaning of the Interpretation Act 1978;
 - “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax;
 - “tax provision” means a provision of an enactment about a relevant tax;
 - “transfer scheme” means a transfer scheme under section 333DA.

- (5) References in this section to the transfer of property, rights or liabilities in accordance with a transfer scheme include references to—
 - (a) the creation of interests, rights or liabilities under the scheme, and
 - (b) the modification of interests, rights or liabilities under the scheme,

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(and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).”

(7) In section 408 (transfers of property, rights or liabilities to the Greater London Authority etc) after subsection (8) insert—

“(8A) An order under subsection (1) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”

(8) In section 409 (transfer schemes for transfers to the Greater London Authority etc) after subsection (8) insert—

“(8A) A scheme under subsection (1) or (2) above may not make provision in relation to land which is held by the Secretary of State and was acquired, or is treated as having been acquired, under section 39 of the Forestry Act 1967 (power to acquire land which is suitable for afforestation or purposes connected with forestry).”

(9) In section 420 (regulations and orders)—

(a) in subsection (7) (instruments subject to annulment in pursuance of a resolution of either House of Parliament) after the entry for section 243(7) insert— “ section 333DA(2);”, and ”, and

(b) after subsection (8) insert—

“(8A) A statutory instrument which contains regulations under section 333DC shall be subject to annulment in pursuance of a resolution of the House of Commons.”

Commencement Information

II S. 31 in force at 12.4.2015, see s. 57(5)(e)

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