

EXPLANATORY MEMORANDUM TO
THE FINANCE ACT 2003, SECTION 66 (PRESCRIBED TRANSACTIONS)
ORDER 2005

2005 No. 645

1. This explanatory memorandum has been prepared by the Inland Revenue and is laid before the House of Commons by Command of Her Majesty.

2. Description

This instrument provides that any land transaction is exempt from stamp duty land tax if it is effected under a nuclear transfer scheme and either the purchaser or the vendor is a public body.

3. Matters of special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Background

This instrument is being made under the power conferred by section 66(2) of the Finance Act 2003. It has effect for transactions on or after 1 April 2005.

5. Extent

This instrument applies throughout the United Kingdom.

6. European Convention on Human Rights

This instrument is subject to the negative resolution procedure and does not amend primary legislation. Accordingly, no statement of compliance with the European Convention on Human Rights is required.

7. Policy background

- 7.1 Section 38 of the Energy Act 2004 authorises the Secretary of State to provide for transfers of property in accordance with a nuclear transfer scheme.
- 7.2 Section 66(1) of the Finance Act 2003 provides that a land transaction is exempt from charge to stamp duty land tax where it is entered into, or in connection with, or in consequence of, a statutory reorganisation and both the purchaser and the vendor are public bodies.
- 7.3 A land transaction undertaken in accordance with a nuclear transfer scheme will be automatically exempt under section 66(1) where both the transferor and transferee are public bodies. A “public body” is defined for this purpose at section 66(4) of the Finance Act 2003 and by virtue of section 66(5) includes a company in which all the shares are owned by such a body and a wholly owned subsidiary of such a company.

- 7.4 Section 66(2) of the Finance Act 2003 allows the Treasury to provide that a land transaction is exempt from stamp duty land tax if the transaction is effected by or under a statutory provision and either the purchaser or the vendor is a public body.
- 7.5 This instrument ensures that exemption from charge to stamp duty land tax will apply to certain transactions which may occur under a nuclear transfer scheme, where either the purchaser or the vendor is a public body, and the other party is an indirectly owned subsidiary company of a public body that is not itself a public body by virtue of section 66(5) of the Finance Act 2003.

8. Impact

A regulatory impact assessment has not been prepared for this instrument as it does not impose any new costs on business.

9. Contact

Mark Anderson at the Inland Revenue, Tel: 020 7147 2621 or e-mail: **Mark.Anderson@ir.gsi.gov.uk** can answer any queries regarding the instrument.