Transfers of going concerns.

(1) Where a business [F1, or part of a business,] carried on by a taxable person is transferred to another person as a going concern, then—

(a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business [F2 or part of the business] before as well as after the transfer and supplies by the transferor shall be treated accordingly, F3...

(b) ..................................................

(2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business [F4, or part of a business,] carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.

(F3A) Regulations under subsection (2) above may, in particular, provide for the duties under this Act of the transferor to preserve records relating to the business or part of the business for any period after the transfer to become duties of the transferee unless the Commissioners, at the request of the transferor, otherwise direct.

(3) Regulations under subsection (2) above may, in particular, provide—

(a) for liabilities and duties under this Act (excluding sections 59 to 70) of the transferor [F6(other than the duties mentioned in subsection (2A) above)] to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and

(b) for any right of either of them to repayment or credit in respect of VAT to be satisfied by making a repayment or allowing a credit to the other;
but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

[1] (4) Subsection (5) below applies where—

(a) a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, and

(b) the transferor continues to be required under this Act to preserve for any period after the transfer any records relating to the business or part of the business.

(5) So far as is necessary for the purpose of complying with the transferee’s duties under this Act, the transferee (“E”) may require the transferor—

(a) to give to E, within such time and in such form as E may reasonably require, such information contained in the records as E may reasonably specify,

(b) to give to E, within such time and in such form as E may reasonably require, such copies of documents forming part of the records as E may reasonably specify, and

(c) to make the records available for E’s inspection at such time and place as E may reasonably require (and permit E to take copies of, or make extracts from, them).

(6) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, the Commissioners may disclose to the transferee any information relating to the business when it was carried on by the transferor for the purpose of enabling the transferee to comply with the transferee’s duties under this Act.]
Changes to legislation:
Value Added Tax Act 1994, Section 49 is up to date with all changes known to be in force on or before 09 August 2019. 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.

View outstanding changes

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

– Blanket Amendment words substituted by 2005 c. 4 Sch. 11 para. 5

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

– s. 7(12) inserted by 2018 c. 22 Sch. 8 para. 7(6)
– s. 15(4) excluded by S.I. 2018/1376 reg. 5(1)
– s. 43A(4)-(7) inserted by 2019 c. 1 Sch. 18 para. 1(4)
– s. 43AZA inserted by 2019 c. 1 Sch. 18 para. 2
– s. 51A inserted by 1995 c. 4 s. 26(1) (This amendment not applied to legislation.gov.uk. S. 26 repealed (1.6.2008) without ever being in force by S.I. 2008/1146, art. 5)
– s. 51A repealed by S.I. 2008/1146 art. 5(2)(a) (This amendment not applied to legislation.gov.uk. The insertion of s. 51A by 1995 c. 4, s. 26(1) never came into force)
– s. 58ZA inserted by 2018 c. 22 Sch. 8 para. 57
– s. 83(1)(b) words omitted by 2018 c. 22 Sch. 8 para. 72(a)(i)
– s. 83(1)(b) words omitted by 2018 c. 22 Sch. 8 para. 72(a)(ii)
– s. 83(1)(d) omitted by 2018 c. 22 Sch. 8 para. 72(b)
– s. 83(1)(j) omitted by 2018 c. 22 Sch. 8 para. 72(c)
– s. 83(1)(p)(iii) and word omitted by 2018 c. 22 Sch. 8 para. 72(d)
– s. 83(1)(w) omitted by 2018 c. 22 Sch. 8 para. 72(e)
– Sch. 4A para. 9D(2) words substituted by 2018 c. 22 Sch. 8 para. 89(11)(a)(ii)
– Sch. 4A para. 9D(2)(b) words substituted by 2018 c. 22 Sch. 8 para. 89(11)(a)(i)
– Sch. 4A para. 9D(3)(a) words substituted by 2018 c. 22 Sch. 8 para. 89(11)(b)
– Sch. 9 Pt. 1 Index words substituted by 2012 c. 14 Sch. 24 para. 64(5)(b)
– Sch. 10 para. 8(2)(3) inserted by 1995 c. 4 s. 26(2) (This amendment not applied to legislation.gov.uk. S. 26 repealed (1.6.2008) without ever being in force by S.I. 2008/1146, art. 5)
– Sch. 10 para. 8(2)(3) repealed by S.I. 2008/1146 art. 5(2)(b) (This amendment not applied to legislation.gov.uk. The insertion of Sch. 10 para. 8(2)(3) by 1995 c. 4, s. 26(2) never came into force)
– Sch. 11 para. 2(5E)(5F) inserted by 2018 c. 22 Sch. 8 para. 97(2)(f)