



# Banking Act 2009

## 2009 CHAPTER 1

### PART 1

#### SPECIAL RESOLUTION REGIME

##### *Transfer of property*

#### **34 Effect**

- (1) In this section “transfer” means a transfer provided for by a property transfer instrument.
- (2) A transfer takes effect by virtue of the instrument (and in accordance with its provisions as to timing or other ancillary matters).
- (3) A transfer takes effect despite any restriction arising by virtue of contract or legislation or in any other way.
- (4) In subsection (3) “restriction” includes—
  - (a) any restriction, inability or incapacity affecting what can and cannot be assigned or transferred (whether generally or by a particular person), and
  - (b) a requirement for consent (by any name).
- (5) A property transfer instrument may provide for a transfer to be conditional upon a specified event or situation—
  - (a) occurring or arising, or
  - (b) not occurring or arising.
- (6) A property transfer instrument may include provision dealing with the consequences of breach of a condition imposed under subsection (5); and the consequences may include—
  - (a) automatic vesting in the original transferor;

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*Status: This is the original version (as it was originally enacted).*

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- (b) an obligation to effect a transfer back to the original transferor, with specified consequences for failure to comply (which may include provision conferring a discretion on a court or tribunal);
  - (c) provision making a transfer or anything done in connection with a transfer void or voidable.
- (7) Where a property transfer instrument makes provision in respect of property held on trust (however arising) it may also make provision about—
- (a) the terms on which the property is to be held after the instrument takes effect (which provision may remove or alter the terms of the trust), and
  - (b) how any powers, provisions and liabilities in respect of the property are to be exercisable or have effect after the instrument takes effect.