



# Borders, Citizenship and Immigration Act 2009

## 2009 CHAPTER 11

### PART 1

#### BORDER FUNCTIONS

##### *Transfer of property etc.*

#### 26 Transfer schemes

- (1) The Commissioners for Her Majesty's Revenue and Customs may make one or more schemes for the transfer of specified property, rights or liabilities or property, rights or liabilities of a specified description between—
  - (a) the Commissioners or officers of Revenue and Customs, and
  - (b) the Secretary of State, the Director of Border Revenue or designated customs officials.
- (2) A scheme under subsection (1) may, in particular—
  - (a) create interests or rights, or impose liabilities, in relation to property, rights or liabilities transferred by virtue of the scheme or retained by a transferor;
  - (b) apportion property, rights or liabilities between a transferor and a transferee.
- (3) A scheme under subsection (1) may—
  - (a) provide for anything done by or in relation to a transferor in connection with anything transferred to have effect as if done by or in relation to a transferee;
  - (b) permit anything (including any legal proceedings) relating to anything transferred by the scheme which is in the process of being done by or in relation to a transferor when the transfer takes effect to be continued by or in relation to a transferee;
  - (c) provide for references to a transferor in an agreement (whether written or not), instrument or other document relating to anything transferred by the scheme to be treated as references to a transferee;

**Changes to legislation:** *Borders, Citizenship and Immigration Act 2009, Section 26 is up to date with all changes known to be in force on or before 20 April 2024. 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. (See end of Document for details) View outstanding changes*

- (d) include other incidental, supplementary, consequential, transitional or transitory provision or savings.
- (4) A scheme under subsection (1) may provide for a transfer of property, rights or liabilities—
- (a) whether or not they would otherwise be capable of being transferred,
  - (b) without any instrument or other formality being required, and
  - (c) irrespective of any requirement for consent that would otherwise apply.
- (5) The Commissioners may make one or more schemes providing for—
- (a) any specified thing or anything of a specified description done by or in relation to the Commissioners or an officer of Revenue and Customs in connection with a relevant function to have effect as if done by or in relation to the Secretary of State, the Director or a designated customs official;
  - (b) any specified thing or anything of a specified description (including any legal proceedings) relating to a relevant function done by or in relation to the Commissioners or an officer of Revenue and Customs to be continued by or in relation to the Secretary of State, the Director or a designated customs official.
- (6) A scheme under this section—
- (a) comes into force in accordance with its terms;
  - (b) may be amended or revoked.
- (7) In this section—
- “relevant function” means a function which before the passing of this Act was exercisable by the Commissioners or officers of Revenue and Customs (whether or not it remains so exercisable) and that—
- (a) is conferred by or by virtue of this Part on the Secretary of State, the Director or a designated customs official, or
  - (b) is a function under [<sup>F1</sup>[<sup>F2</sup>assimilated] law] that is exercisable by the Secretary of State, the Director or a designated customs official;
- “specified” means specified in the scheme.

#### Textual Amendments

- F1** Words in s. 26(7) substituted (31.12.2020) by [The Immigration, Nationality and Asylum \(EU Exit\) Regulations 2019 \(S.I. 2019/745\)](#), regs. 1(2), **19(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in s. 26(7) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 69(2)(c)**

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

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

- s. 54A(3A)(3B) inserted by [2023 c. 37 s. 14](#)