



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART VII

CONTROL OF BUSINESS TRANSFERS

112 Effect of order sanctioning business transfer scheme

- (1) If the court makes an order under section 111(1), it may by that or any subsequent order make such provision (if any) as it thinks fit—
- (a) for the transfer to the transferee of the whole or any part of the undertaking concerned and of any property or liabilities of the authorised person concerned;
 - (b) for the allotment or appropriation by the transferee of any shares, debentures, policies or other similar interests in the transferee which under the scheme are to be allotted or appropriated to or for any other person;
 - (c) for the continuation by (or against) the transferee of any pending legal proceedings by (or against) the authorised person concerned;
 - (d) with respect to such incidental, consequential and supplementary matters as are, in its opinion, necessary to secure that the scheme is fully and effectively carried out.
- (2) An order under subsection (1)(a) may—
- (a) transfer property or liabilities whether or not the authorised person concerned otherwise has the capacity to effect the transfer in question;
 - (b) make provision in relation to property which was held by the authorised person concerned as trustee;
 - (c) make provision as to future or contingent rights or liabilities of the authorised person concerned, including provision as to the construction of instruments (including wills) under which such rights or liabilities may arise;
 - (d) make provision as to the consequences of the transfer in relation to any retirement benefits scheme (within the meaning of section 611 of the Income and Corporation Taxes Act 1988) operated by or on behalf of the authorised person concerned.

Status: This is the original version (as it was originally enacted).

- (3) If an order under subsection (1) makes provision for the transfer of property or liabilities—
- (a) the property is transferred to and vests in, and
 - (b) the liabilities are transferred to and become liabilities of,
- the transferee as a result of the order.
- (4) But if any property or liability included in the order is governed by the law of any country or territory outside the United Kingdom, the order may require the authorised person concerned, if the transferee so requires, to take all necessary steps for securing that the transfer to the transferee of the property or liability is fully effective under the law of that country or territory.
- (5) Property transferred as the result of an order under subsection (1) may, if the court so directs, vest in the transferee free from any charge which is (as a result of the scheme) to cease to have effect.
- (6) An order under subsection (1) which makes provision for the transfer of property is to be treated as an instrument of transfer for the purposes of the provisions mentioned in subsection (7) and any other enactment requiring the delivery of an instrument of transfer for the registration of property.
- (7) The provisions are—
- (a) section 183(1) of the Companies Act 1985;
 - (b) Article 193(1) and (2) of the Companies (Northern Ireland) Order 1986.
- (8) If the court makes an order under section 111(1) in relation to an insurance business transfer scheme, it may by that or any subsequent order make such provision (if any) as it thinks fit—
- (a) for dealing with the interests of any person who, within such time and in such manner as the court may direct, objects to the scheme;
 - (b) for the dissolution, without winding up, of the authorised person concerned;
 - (c) for the reduction, on such terms and subject to such conditions (if any) as it thinks fit, of the benefits payable under—
 - (i) any description of policy, or
 - (ii) policies generally,entered into by the authorised person concerned and transferred as a result of the scheme.
- (9) If, in the case of an insurance business transfer scheme, the authorised person concerned is not an EEA firm, it is immaterial for the purposes of subsection (1)(a), (c) or (d) or subsection (2), (3) or (4) that the law applicable to any of the contracts of insurance included in the transfer is the law of an EEA State other than the United Kingdom.
- (10) The transferee must, if an insurance or banking business transfer scheme is sanctioned by the court, deposit two office copies of the order made under subsection (1) with the Authority within 10 days of the making of the order.
- (11) But the Authority may extend that period.
- (12) “Property” includes property, rights and powers of any description.
- (13) “Liabilities” includes duties.

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

- (14) “Shares” and “debentures” have the same meaning as in—
 - (a) the Companies Act 1985; or
 - (b) in Northern Ireland, the Companies (Northern Ireland) Order 1986.
- (15) “Charge” includes a mortgage (or, in Scotland, a security over property).