

*These notes refer to the Banking Act 2009 (c.1)
which received Royal Assent on 12 February 2009*

BANKING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Special Resolution Regime

Transfer of property

Section 48: Power to protect certain interests

130. This power enables certain private law rights to be protected when the property transfer powers are exercised to effect a partial transfer. A partial transfer is the transfer of some, but not all, of a bank's property, rights or liabilities (as defined in subsection (1) of Section 47).
131. *Subsection (1)* broadly defines the certain interests ("protected interests") for which the power may provide protection. This provision reflects the extremely broad range of relevant interests which exist in this field. The interests which the exercise of the power is intended to cover may include, for example, security interests and set-off and netting arrangements.
132. Under the power, such interests may be protected in the ways set out in *subsection (2)*, as supplemented by *subsection (3)*.
133. The power is exercisable by the Treasury making an order by statutory instrument subject to the affirmative procedure (*subsection (6)*), or in the first instance the 28 day procedure, as provided by section 259.