



# Nuclear Energy (Financing) Act 2022

## 2022 CHAPTER 15

### PART 1

#### NUCLEAR ENERGY GENERATION PROJECTS: REGULATED ASSET BASE MODEL

##### *Designation of nuclear company*

### **2 Designation of nuclear company**

- (1) The Secretary of State may by notice given to a nuclear company designate the company in relation to a nuclear energy generation project in respect of which the company holds an electricity generation licence (“the nuclear project”).
- (2) The Secretary of State may designate a nuclear company under [subsection \(1\)](#) only if the designation criteria are met in relation to the company.
- (3) The designation criteria are that—
  - (a) the Secretary of State is of the opinion that the development of the nuclear project is sufficiently advanced to justify the designation of the nuclear company in relation to the project, and
  - (b) the Secretary of State is of the opinion that designating the nuclear company in relation to the project is likely to result in value for money.
- (4) In this Part, “designation notice” means a notice under [subsection \(1\)](#).

### **3 Designation: procedure**

- (1) The Secretary of State must publish a statement setting out—
  - (a) the procedure that the Secretary of State expects to follow in determining whether to exercise the power under [section 2\(1\)](#), and
  - (b) how the Secretary of State expects to determine whether the designation criteria mentioned in [section 2\(3\)](#) are met.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Before designating a nuclear company under [section 2\(1\)](#), the Secretary of State must—
- (a) prepare draft reasons for the designation, and
  - (b) consult the persons listed in [subsection \(3\)](#) (including on the draft reasons).
- (3) Those persons are—
- (a) the nuclear company that the Secretary of State proposes to designate;
  - (b) the Authority;
  - (c) the Office for Nuclear Regulation;
  - (d) where any part of the site for the nuclear project is in England, the Environment Agency;
  - (e) where any part of the site for the nuclear project is in Wales, the Welsh Ministers and Natural Resources Wales;
  - (f) where any part of the site for the nuclear project is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency;
  - (g) such other persons as the Secretary of State considers appropriate.
- (4) A duty imposed by [subsection \(1\)](#) or [\(2\)](#) may be satisfied by things done before the passing of this Act (as well as by things done after that time).
- (5) A designation notice must include—
- (a) a description of the nuclear project,
  - (b) the Secretary of State’s reasons for the designation (amended as appropriate in light of consultation under [subsection \(2\)\(b\)](#)),
  - (c) details of any conditions imposed by the Secretary of State in relation to the designation and of the consequences of a failure to comply with any such condition, and
  - (d) the date of the notice.
- (6) The Secretary of State must—
- (a) publish a designation notice, and
  - (b) in addition to giving the designation notice to the nuclear company being designated, give a copy of it to the other persons consulted under [subsection \(2\)\(b\)](#).

#### **4 Expiry of designation**

- (1) The designation of a nuclear company under [section 2\(1\)](#) ceases to have effect—
- (a) on the expiry date, or
  - (b) if the company enters into a revenue collection contract with a revenue collection counterparty before the expiry date, at the end of the day on which the revenue collection contract is entered into,
- unless it ceases to have effect sooner in accordance with [section 5\(1\)](#) or [\(3\)](#).
- (2) “The expiry date”, in relation to the designation of a particular nuclear company, is—
- (a) the end of the period of 5 years beginning with the date of the designation notice in question, or
  - (b) where one or more notices under [subsection \(3\)](#) have been given to the company, the end of the day specified in the last such notice.

- (3) The Secretary of State may, before the expiry date that for the time being applies in relation to a designated nuclear company, give the company a notice providing that the new expiry date for the company's designation is a day falling—
  - (a) after that date, but
  - (b) not more than 5 years from the date on which the notice is given to the company.
- (4) Before giving a notice under [subsection \(3\)](#), the Secretary of State must consult—
  - (a) the designated nuclear company,
  - (b) the Authority,
  - (c) the Office for Nuclear Regulation,
  - (d) where any part of the site for the nuclear project is in England, the Environment Agency,
  - (e) where any part of the site for the nuclear project is in Wales, the Welsh Ministers and Natural Resources Wales,
  - (f) where any part of the site for the nuclear project is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency, and
  - (g) such other persons as the Secretary of State considers appropriate.
- (5) Where the designation of a nuclear company ceases to have effect in accordance with [subsection \(1\)](#), the Secretary of State must publish details of that fact.

## 5 Revocation or lapse of designation

- (1) The Secretary of State may by notice given to a designated nuclear company revoke the company's designation under [section 2\(1\)](#) if—
  - (a) the company ceases to hold an electricity generation licence in respect of the nuclear energy generation project described in the designation notice, or
  - (b) either of the designation criteria mentioned in [section 2\(3\)](#) ceases to be met in relation to the company.
- (2) [Section 3\(2\)](#), [\(5\)\(a\)](#), [\(b\)](#) and [\(d\)](#) and [\(6\)](#) applies (with necessary modifications) in relation to the revocation under [subsection \(1\)](#) of a nuclear company's designation under [section 2\(1\)](#) as it applies in relation to the designation of a nuclear company under [section 2\(1\)](#).
- (3) The designation of a nuclear company under [section 2\(1\)](#) ceases to have effect if—
  - (a) by virtue of [section 3\(5\)\(c\)](#), the designation notice specifies that failure to comply with a particular condition to which the designation is subject will result in the lapse of the designation, and
  - (b) the Secretary of State gives the nuclear company a notice under this subsection stating that the company has failed to comply with that condition.
- (4) Where the Secretary of State gives a notice to a nuclear company under [subsection \(1\)](#) or [\(3\)](#), the designation of the company ceases to have effect at the end of the day on which the notice is given to the company.
- (5) The Secretary of State must publish a notice given to a nuclear company under [subsection \(3\)](#).