



# Nuclear Energy (Financing) Act 2022

## 2022 CHAPTER 15

### PART 3

#### SPECIAL ADMINISTRATION REGIME

##### *Relevant licensee nuclear company administration orders*

#### **31 Relevant licensee nuclear company administration orders**

- (1) A relevant licensee nuclear company administration order (referred to in this Part as an “RLNC administration order”) means an order which—
  - (a) is made by the court in relation to a relevant licensee nuclear company;
  - (b) directs that, while the order is in force, the affairs, business and property of the company are to be managed by a person appointed by the court.
- (2) The person appointed in relation to a company for the purposes of an RLNC administration order is referred to in this Part as the nuclear administrator of the company.
- (3) The nuclear administrator of a company must manage the company’s affairs, business and property, and exercise and perform all the powers and duties of a nuclear administrator, so as to achieve the objective set out in section 32.
- (4) In this Part—
  - “relevant licence”, in relation to a relevant licensee nuclear company, means the company’s electricity generation licence (within the meaning of [Part 1](#));
  - “relevant licensee nuclear company” has the same meaning as in [Part 1](#).

#### **32 Objective of a relevant licensee nuclear company administration**

- (1) The objective of a relevant licensee nuclear company administration is to secure—

---

*Status: This is the original version (as it was originally enacted).*

---

- (a) that electricity generation commences, or continues, at the nuclear installation in respect of which the relevant licensee nuclear company to which the administration relates holds a relevant licence, and
  - (b) that it becomes unnecessary, by one or both of the following means, for the RLNC administration order to remain in force for that purpose.
- (2) Those means are—
- (a) the rescue as a going concern of the company subject to the RLNC administration order, and
  - (b) transfers falling within subsection (3).
- (3) A transfer falls within this subsection if it is a transfer as a going concern—
- (a) to another company, or
  - (b) as respects different parts of the undertaking of the company subject to the RLNC administration order, to two or more different companies,
- of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the relevant licensee nuclear company administration.
- (4) The means by which transfers falling within subsection (3) may be effected include, in particular—
- (a) a transfer of the undertaking of the company subject to the RLNC administration order, or of a part of its undertaking, to a wholly-owned subsidiary of that company, and
  - (b) a transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer falling within paragraph (a).
- (5) The objective of a relevant licensee nuclear company administration may be achieved by a transfer falling within subsection (3) to the extent only that—
- (a) the rescue as a going concern of the company subject to the RLNC administration order is not reasonably practicable or is not reasonably practicable without such a transfer,
  - (b) the rescue of that company as a going concern will not achieve that objective or will not do so without such a transfer,
  - (c) such a transfer would produce a result for the company’s creditors as a whole that is better than the result that would be produced without it, or
  - (d) such a transfer would, without prejudicing the interests of those creditors as a whole, produce a result for the company's members as a whole that is better than the result that would be produced without it.
- (6) In this section, “nuclear installation” has the same meaning as in the Nuclear Installations Act 1965.

*Application and amendment of the Energy Act 2004*

**33 Application of certain provisions of the Energy Act 2004**

- (1) Sections 156 to 167 of, and Schedules 20 and 21 to, the Energy Act 2004 (special administration regime for energy licensees) apply in relation to an RLNC administration order as they apply in relation to an energy administration order within the meaning given by section 154(1) of that Act, but with the modifications set out in subsections (2) to (5).

---

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

---

- (2) In the application of those provisions generally—
- (a) for “energy administration”, in each place where it occurs, substitute “relevant licensee nuclear company administration”;
  - (b) for “energy administrator”, in each place where it occurs, substitute “nuclear administrator”;
  - (c) for “a protected energy company”, in each place where it occurs, substitute “a relevant licensee nuclear company”.
- (3) In the application of sections 156 to 167—
- (a) in section 156(4), omit paragraph (b) (and the “or” before it);
  - (b) in section 157 omit—
    - (i) subsection (7), and
    - (ii) paragraph (b) of subsection (8) (and the “or” before it);
  - (c) in section 164, omit subsection (2).
- (4) In the application of Schedule 20—
- (a) omit paragraph 1(2);
  - (b) in paragraph 32(1)(d), for the words from ““energy administration application”” to “Energy Act 2004” substitute ““relevant licensee nuclear company administration application” means an application to the court for a relevant licensee nuclear company administration order under Chapter 3 of Part 3 of the Energy Act 2004, as applied by section 33 of the Nuclear Energy (Financing) Act 2022”;
  - (c) in paragraph 32(1)(e), for “section 155 of the Energy Act 2004” substitute “section 32 of the Nuclear Energy (Financing) Act 2022”;
  - (d) omit Part 3;
  - (e) omit paragraph 42(1);
  - (f) in paragraph 43, after “the Energy Act 2004” insert “and section 33 of the Nuclear Energy (Financing) Act 2022”;
  - (g) in paragraph 44(5), after “the Energy Act 2004” insert “and section 33 of the Nuclear Energy (Financing) Act 2022”;
  - (h) in paragraph 45, after “section 157(1)(e) of this Act” insert “as applied by section 33 of the Nuclear Energy (Financing) Act 2022”;
  - (i) omit paragraph 46 (but see section 38 of this Act);
  - (j) in paragraph 47, after “Part 1 of this Schedule” insert “and section 33 of the Nuclear Energy (Financing) Act 2022”.
- (5) In the application of Schedule 21—
- (a) for “old energy company”, in each place where it occurs, substitute “old relevant licensee nuclear company”;
  - (b) for “new energy company”, in each place where it occurs, substitute “new relevant licensee nuclear company”;
  - (c) in paragraph 1(b), for “section 155(3)” substitute “section 32(3) of the Nuclear Energy (Financing) Act 2022”;
  - (d) in paragraphs 3(8) and 9(6), for “GEMA” substitute “—
    - (a) GEMA,
    - (b) the Office for Nuclear Regulation,
    - (c) where any part of the relevant site is in England, the Environment Agency,

---

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

---

- (d) where any part of the relevant site is in Wales, the Welsh Ministers and Natural Resources Wales,
- (e) where any part of the relevant site is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency, and
- (f) such other persons as the Secretary of State considers appropriate,

and in this sub-paragraph, the “relevant site” is the site of the nuclear installation (within the meaning of the Nuclear Installations Act 1965) in respect of which the old relevant licensee nuclear company holds a relevant licence.”

- (e) omit paragraph 10;
  - (f) in paragraph 12, for “section 155” substitute “section 32 of the Nuclear Energy (Financing) Act 2022”.
- (6) Sections 171 and 196 of the Energy Act 2004 (interpretation) apply for the purposes of the application by subsection (1) of the provisions mentioned in that subsection, but with the modifications set out in subsection (7).
- (7) In the application of section 171(1)—
- (a) in the definition of “company”, omit paragraph (b) (and the “or” before it);
  - (b) omit the definition of “non-GB company”;
  - (c) insert, at the appropriate places, the following definitions—
    - ““objective of the relevant licensee nuclear company administration” is to be construed in accordance with section 32 of the Nuclear Energy (Financing) Act 2022;”;
    - ““relevant licensee nuclear company” has the meaning given by section 31(4) of the Nuclear Energy (Financing) Act 2022;”;
    - ““relevant licensee nuclear company administration order” has the meaning given by section 31(1) of the Nuclear Energy (Financing) Act 2022;”;
    - ““relevant licensee nuclear company administration rules” means the rules made under section 411 of the 1986 Act by virtue of section 159(3) of this Act, for the purpose of giving effect to this Chapter as applied by section 33 of the Nuclear Energy (Financing) Act 2022;”;
  - (d) for the definition of “energy administrator” substitute—
    - ““nuclear administrator” has the meaning given by section 39 of the Nuclear Energy (Financing) Act 2022;”;
  - (e) for the definition of “relevant licence” substitute—
    - ““relevant licence” has the meaning given by section 31(4) of the Nuclear Energy (Financing) Act 2022.”;
  - (f) omit the definition of “unregistered company”.

### **34 Conduct of administration, transfer schemes, etc**

In section 159(3) of the Energy Act 2004 (conduct of administration, transfer schemes, etc under Chapter 3 of Part 3 of that Act), for “or section 4 of the Smart Meters Act 2018” substitute “, section 4 of the Smart Meters Act 2018 or section 33 of the Nuclear Energy (Financing) Act 2022”.

### *Licence modifications*

#### **35 Licence modifications: relevant licensee nuclear company administration**

- (1) The Secretary of State may modify—
  - (a) a condition of a relevant licensee nuclear company’s relevant licence;
  - (b) a term of a relevant licensee nuclear company’s relevant licence.
- (2) The Secretary of State may exercise the power under subsection (1) only—
  - (a) if an RLNC administration order is in force in relation to the relevant licensee nuclear company, and
  - (b) for the purpose of furthering the objective of a relevant licensee nuclear company administration.
- (3) When exercising the power under subsection (1), the Secretary of State must have regard to—
  - (a) the duties of the Secretary of State under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets);
  - (b) the interests of existing and future consumers of electricity, including their interests in relation to the cost and security of supply of electricity;
  - (c) costs, expenditure or liabilities of any description that the relevant licensee nuclear company may reasonably be expected to incur in carrying out its activities;
  - (d) the need to secure that the relevant licensee nuclear company is able to finance its activities;
  - (e) the need to secure that the relevant licensee nuclear company has appropriate incentives in relation to the carrying out of its activities;
  - (f) such other matters as the Secretary of State considers appropriate.
- (4) Modifications made under subsection (1)(a) may include, for example—
  - (a) provision about the revenue that the relevant licensee nuclear company may receive in respect of its activities;
  - (b) provision about how the relevant licensee nuclear company’s revenue referred to in paragraph (a) is to be calculated;
  - (c) provision about the amounts that the relevant licensee nuclear company is entitled to receive, or is required to pay, under any revenue collection contract (within the meaning of Part 2) to which it is a party;
  - (d) provision requiring the relevant licensee nuclear company to co-operate with the Authority and to provide such information and assistance to the Authority as the Authority may require for the purposes of carrying out any of its functions;
  - (e) provision about RLNC administration orders, including provision about the raising of funds for the purpose of meeting expenses arising by virtue of such an order;
  - (f) provision about the disclosure or publication of information by the relevant licensee nuclear company.
- (5) The Secretary of State may modify—
  - (a) the standard conditions incorporated in licences under section 6(1)(a) to (d) of the Electricity Act 1989 by virtue of section 8A of that Act;

- (b) a document maintained in accordance with the conditions of licences under section 6(1)(a) to (d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (6) The Secretary of State may exercise the power under subsection (5) only if the Secretary of State considers it appropriate to do so in consequence of, or for purposes incidental or supplementary to, the making of a modification under subsection (1).
- (7) References in this section to the activities of a relevant licensee nuclear company are references to the company's activities in relation to the design, construction, commissioning and operation of the nuclear energy generation project in respect of which it holds a relevant licence, including its activities in complying with any obligations it has under an approved funded decommissioning programme under Chapter 1 of Part 3 of the Energy Act 2008.

### 36 Procedure etc relating to modifications under section 35

- (1) Before making a modification under a power conferred by section 35(1) or (5), the Secretary of State must consult—
  - (a) the nuclear administrator (including as agent of the relevant licensee nuclear company),
  - (b) the Authority,
  - (c) the Office for Nuclear Regulation,
  - (d) where any part of the relevant site is in England, the Environment Agency,
  - (e) where any part of the relevant site is in Wales, the Welsh Ministers and Natural Resources Wales,
  - (f) where any part of the relevant site is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency,
  - (g) in the case of a modification under section 35(5), other holders of a licence being modified, and
  - (h) such other persons as the Secretary of State considers appropriate.
- (2) For the purposes of subsection (1), the “relevant site” is the site of the nuclear installation (within the meaning of the Nuclear Installations Act 1965) in respect of which the relevant licensee nuclear company holds a relevant licence.
- (3) The powers under section 35(1) and (5)—
  - (a) may be exercised generally, only in relation to specified cases, or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
  - (b) may be exercised differently for different purposes;
  - (c) include a power to make incidental, supplementary, consequential or transitional modifications.
- (4) Provision included in a licence, or in a document or agreement described in section 35(5)(b), by virtue of section 35(1) or (5)—
  - (a) may make different provision for different purposes;
  - (b) need not relate to the activities authorised by the licence;
  - (c) may do anything authorised for licences of that type by section 7(4), (5)(a) or (6A) of the Electricity Act 1989.

- (5) The Secretary of State must publish details of any modifications made under [section 35\(1\)](#) or [\(5\)](#) as soon as reasonably practicable after they are made.
- (6) The Secretary of State may exclude from publication under [subsection \(5\)](#) anything the publication of which the Secretary of State considers—
  - (a) would be likely to prejudice the commercial interests of any person, or
  - (b) would be contrary to the interests of national security.
- (7) If under [section 35\(5\)](#) the Secretary of State makes a modification of the standard conditions of a licence, the Authority must—
  - (a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
  - (b) publish the modification.
- (8) A modification made under [section 35\(1\)](#) or [\(5\)](#) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Electricity Act 1989.

#### *Powers to modify enactments*

### **37 Modification under the Enterprise Act 2002**

- (1) The power to modify or apply enactments conferred on the Secretary of State by each of sections 248 and 277 of the Enterprise Act 2002 (amendments consequential on that Act) includes power to make such consequential modifications of this Part as the Secretary of State considers appropriate in connection with any other provision made under that section.
- (2) In section 170(1) of the Energy Act 2004 (modification of Chapter 3 of Part 3 of that Act under the Enterprise Act 2002), for “or section 4 of the Smart Meters Act 2018” substitute “; section 4 of the Smart Meters Act 2018 or section [33](#) of the Nuclear Energy (Financing) Act 2022”.

### **38 Power to make further modifications of insolvency legislation**

- (1) The Secretary of State may by regulations—
  - (a) provide for insolvency legislation to apply in relation to any provision made by or under this Part;
  - (b) make such modifications of insolvency legislation as the Secretary of State considers appropriate in relation to any provision made by or under this Part (including any insolvency legislation that is applied under paragraph [\(a\)](#)).
- (2) In relation to regulations under [subsection \(1\)](#), “insolvency legislation” means—
  - (a) the Insolvency Act 1986,
  - (b) Chapter 3 of Part 3 of the Energy Act 2004, and
  - (c) any other provision that relates to insolvency, or makes provision by reference to anything that is or may be done under the Insolvency Act 1986, and is—
    - (i) contained in an Act passed before this Act or in the same Session, or
    - (ii) made under an Act before the regulations come into force.
- (3) Provision made under [subsection \(1\)](#) may amend this Part.



- (4) Regulations under this section are to be made by statutory instrument.
- (5) Regulations under this section must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament.

### *Interpretation*

## **39 Interpretation of Part 3**

### (1) In this Part—

- “the Authority” means the Gas and Electricity Markets Authority;
- “business”, “member” and “property” have the same meanings as in the Insolvency Act 1986;
- “company” means a company registered under the Companies Act 2006 in England and Wales or Scotland;
- “court”, in relation to a company, means the court—
  - (a) having jurisdiction to wind up the company, or
  - (b) that would have such jurisdiction apart from section 221(2) or 441(2) of the Insolvency Act 1986 (exclusion of winding up jurisdiction in case of companies having principal place of business in, or incorporated in, Northern Ireland);
- “functions” includes powers and duties;
- “modification” includes omission, addition or alteration, and cognate expressions are to be construed accordingly;
- “nuclear administrator” has the meaning given by section 31(2) and is to be construed in accordance with subsection (2) of this section;
- “objective of a relevant licensee nuclear company administration” is to be construed in accordance with section 32;
- “relevant licence” has the meaning given by section 31(4);
- “relevant licensee nuclear company” has the same meaning as in Part 1;
- “RLNC administration order” (or “relevant licensee nuclear company administration order”) has the meaning given by section 31(1);
- “subsidiary” and “wholly-owned subsidiary” have the meaning given by section 1159 of the Companies Act 2006.

### (2) In this Part references to the nuclear administrator of a company—

- (a) include references to a person appointed under paragraph 91 or 103 of Schedule B1 to the Insolvency Act 1986, as applied by Part 1 of Schedule 20 to the Energy Act 2004 and section 33 of this Act to be the nuclear administrator of that company, and
- (b) where two or more persons are appointed to be the nuclear administrator of that company, are to be construed in accordance with the provision made under section 158(5) of the Energy Act 2004, as applied by section 33 of this Act.