



# Atomic Energy Authority Act 1995

## 1995 CHAPTER 37

### *Transfer of property, rights and liabilities of the Authority*

#### **1 Atomic Energy Authority to make schemes for transfer of property, rights and liabilities if so directed**

- (1) If so directed by the Secretary of State under section 2(1) of this Act, the United Kingdom Atomic Energy Authority (in this Act referred to as “the Authority”) shall make a scheme or schemes providing for the transfer to any person or persons of such property, rights and liabilities of the Authority as are specified in, or determined in accordance with, the scheme.
- (2) In this Act a “transfer scheme” means a scheme made under subsection (1) above (including a scheme so made by virtue of section 2(3) of this Act).
- (3) No transfer scheme may provide for the transfer of—
  - (a) a nuclear site licence (within the meaning of the Nuclear Installations Act 1965), or
  - (b) the fee simple estate in any land which, immediately before the day on which the scheme comes into force, consists of or is wholly or partly comprised in a site in respect of which such a licence held by the Authority is in force.
- (4) The person or persons to whom anything is transferred by a transfer scheme may be or include one or more companies formed or acquired by the Authority or the Secretary of State for that purpose.
- (5) Schedule 1 to this Act shall have effect with respect to transfer schemes.
- (6) In the application of subsection (3)(b) above to Scotland, the reference to the fee simple estate shall be construed as a reference—
  - (a) in the case of feudal property, to the estate or interest of the proprietor of the *dominium utile*, or
  - (b) in the case of any property other than feudal property, to the estate or interest of the owner.

## 2 Powers of Secretary of State

- (1) The Secretary of State may from time to time direct the Authority to make, before a date specified in the direction, a transfer scheme which relates to such property, rights and liabilities as are specified in, or determined in accordance with, the direction and contains such other provisions as may be so specified.
- (2) A transfer scheme shall not take effect unless it is approved by the Secretary of State and by the Treasury; and the Secretary of State may modify such a scheme before approving it.
- (3) If—
  - (a) the Secretary of State decides not to approve a scheme that has been submitted to him by the Authority (either with or without modifications), or
  - (b) the Secretary of State has given a direction under subsection (1) above and the Authority have failed, before the date specified in the direction, to submit the scheme for the approval of the Secretary of State,the Secretary of State may himself make a transfer scheme with the consent of the Treasury.
- (4) Subsections (1) to (3) above shall have effect subject to section 1(3) of this Act.
- (5) Subject to subsection (6) below, the Secretary of State shall not approve or make a transfer scheme containing any provision in accordance with which any person other than—
  - (a) a company which is wholly owned by the Crown, or
  - (b) a wholly-owned subsidiary of the Authority,becomes entitled or subject to any property, rights and liabilities unless it appears to the Secretary of State that the person has consented to the provisions of the scheme so far as they relate to him.
- (6) Subsection (5) above shall not require the consent of any person to so much of a transfer scheme as—
  - (a) relates to property, rights or liabilities to which that person is already entitled or subject, and
  - (b) appears to the Secretary of State to be made for purposes that are no more than supplemental or incidental to the other provisions of the scheme.
- (7) Before—
  - (a) declining to approve a transfer scheme, or
  - (b) modifying or making such a scheme,the Secretary of State shall consult the Authority.
- (8) The Secretary of State may—
  - (a) exercise his powers under this section,
  - (b) give any direction to the Authority under subsection (2) of section 3 of the Atomic Energy Authority Act 1954 (general power of Secretary of State to give directions to the Authority) which in his opinion is appropriate for the purpose of facilitating—
    - (i) any transfer effected or proposed to be effected under section 1 of this Act, or
    - (ii) the disposal of securities of a successor company, and
  - (c) do anything else which in his opinion is appropriate for that purpose,

whether or not the exercise of those powers, the giving of that direction or the doing of that thing is consistent with promoting or controlling the development of atomic energy.

### **3 Supplementary provisions as to the Authority's powers**

Without prejudice to any powers of the Authority apart from this section, the Authority shall have power to do anything which in their opinion is appropriate for the purpose of facilitating—

- (a) any transfer effected or proposed to be effected under section 1 of this Act, or
- (b) the disposal of securities of a successor company.

### **4 Agreements with respect to transfer schemes**

- (1) The Authority may enter into any such agreement as they think fit for the purpose of accepting or imposing contractual obligations with respect to, or to anything connected with, the manner in which their powers by virtue of section 1 of this Act are to be exercised.
- (2) The Secretary of State may enter into such agreement as he thinks fit with respect to, or to anything connected with, the manner and circumstances in which his powers under or by virtue of section 2 of this Act are to be exercised.
- (3) Any agreement under this section may, in particular, provide for the making of payments to the Authority or the Secretary of State (by way of consideration or otherwise) in respect of anything transferred or created in accordance with a transfer scheme.
- (4) The consent of the Treasury shall be required for the making of an agreement under this section; and the consent of the Secretary of State shall also be required for the making by the Authority of an agreement under this section.
- (5) Any sums received by the Secretary of State in pursuance of an agreement under this section shall be paid into the Consolidated Fund.

### **5 Duty of Authority to assist Secretary of State in connection with transfer schemes**

- (1) It shall be the duty of the Authority to furnish the Secretary of State with all such information and other assistance as he may require for the purposes of, or in connection with—
  - (a) the exercise of any of his powers in relation to a transfer scheme or in relation to any agreement under section 4 of this Act, or
  - (b) the making by him of a transfer scheme or of any such agreement.
- (2) The obligation of the Authority under this section shall include a duty to secure, as far as practicable, that their subsidiaries furnish all such information and assistance as the Secretary of State may require for the purposes of, or in connection with, the exercise of any such power, or the making of any such scheme or agreement, as is mentioned in subsection (1) above.

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- (3) A duty under this section to furnish information or assistance, or to secure that it is furnished, shall be performed within such period after the requirement giving rise to the duty as the Secretary of State may allow.

*Successor companies*

**6 Successor companies**

Schedule 2 to this Act (which relates to successor companies) shall have effect.

**7 Disposal by Authority or Secretary of State of shares in successor companies**

- (1) In section 1 of the Atomic Energy (Miscellaneous Provisions) Act 1981 (extension of power of Authority and Secretary of State to dispose of shares), subsection (4) (which limits the power of the Authority to dispose of shares) and subsection (5) (which limits the power of the Secretary of State to dispose of shares) shall not apply in relation to shares in any successor company.
- (2) The Authority shall not dispose of any securities of any successor company except with the consent of the Secretary of State and the Treasury.

*Financial arrangements relating to transfers*

**8 Taxation provisions**

Schedule 3 to this Act (which relates to taxation) shall have effect.

**9 Pensions**

Schedule 4 to this Act (which relates to pensions) shall have effect.

*Extinguishment of certain liabilities*

**10 Extinguishment of certain liabilities**

- (1) Subject to subsection (2) below, the Secretary of State may, at any time after the coming into force of a transfer scheme, by order extinguish all or any of the liabilities of the Authority in respect of the principal of such relevant loans as may be specified in the order to such extent as may be so specified.
- (2) The aggregate amount of the liabilities extinguished under subsection (1) above shall not exceed the aggregate of—
- (a) any sums received by the Secretary of State or the Authority in pursuance of agreements under section 4 of this Act, and
  - (b) any sums received by the Treasury, the Secretary of State or the Authority on the disposal of any securities of a successor company, or of rights to subscribe for such securities.

- (3) The Secretary of State may by order extinguish all or any of the liabilities of a publicly owned successor company in respect of the principal of such relevant loans as may be specified in the order to such extent as may be so specified.
- (4) Where any liabilities are extinguished under subsection (1) or (3) above, the assets of the National Loans Fund shall accordingly be reduced by amounts corresponding to the liabilities so extinguished.
- (5) Where the Secretary of State has made an order under subsection (3) above and he considers it appropriate to do so, he may from time to time give a direction under this subsection to a successor company whose liabilities are extinguished by the order; and a company to which such a direction is given shall, as a consequence of the making of the order, issue such securities of the company as may be specified or described in the direction—
  - (a) to the Treasury, the Secretary of State or the Authority, or
  - (b) to any person entitled to require the issue of the securities following their initial allotment to the Treasury, the Secretary of State or the Authority.
- (6) No direction may be given to a successor company under subsection (5) above at any time after that company has ceased to be publicly owned.
- (7) Unless the Secretary of State otherwise determines in any particular case, where a company is directed to issue debentures in pursuance of this section—
  - (a) the aggregate of the principal sums payable under the debentures to which the direction relates shall be equal to the aggregate of the sums the liability to repay which is extinguished by the order, and
  - (b) the terms as to the payment of the principal sums payable on the debentures to which the direction relates, and as to the payment of interest on those principal sums, shall be the same as the corresponding terms of the loans specified in the order.
- (8) For the purposes of subsection (7) above, any express or implied terms of a loan shall be disregarded in so far as they relate to the early discharge of liabilities to make repayments of principal and payments of interest.
- (9) Paragraphs 1(4) and (5), 3 and 4 of Schedule 2 to this Act shall apply for the purposes of subsection (5) above as they apply for the purposes of paragraph 1 of that Schedule.
- (10) The Secretary of State shall not exercise any power conferred on him by this section except with the consent of the Treasury.
- (11) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section “relevant loan”—
  - (a) in relation to the Authority, means the Authority’s commencing capital debt under section 1 of the Atomic Energy Authority Act 1986 and any loan made to the Authority under section 4 of that Act, and
  - (b) in relation to a successor company, means—
    - (i) any debt or loan mentioned in paragraph (a) above, if and to the extent that the liability to repay it is transferred to the company in accordance with a transfer scheme, and

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- (ii) any loan made to that company by the Secretary of State under paragraph 11 of Schedule 2 to this Act.

### *Membership of the Authority*

## **11 Membership of the Authority**

- (1) Section 1 of the Atomic Energy Authority Act 1954 shall be amended as follows.
- (2) In subsection (2) (which provides that the Authority shall consist of a chairman and not less than seven nor more than fifteen other members) for “seven” there shall be substituted “four”.
- (3) In subsection (3) (which provides that all the members are to be appointed by the Secretary of State and that certain of them are to have certain experience) the words from “and of those members” to the end shall be omitted.

### *Supplementary provisions*

## **12 Expenses**

There shall be paid out of money provided by Parliament any increase attributable to this Act in—

- (a) the administrative expenses of the Secretary of State or the Treasury, or  
(b) the sums which under any other Act are payable out of money so provided.

## **13 Interpretation**

- (1) In this Act, unless the context otherwise requires—
- “the Authority” means the United Kingdom Atomic Energy Authority;
- “debentures” includes debenture stock;
- “securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;
- “shares” includes stock;
- “subsidiary” and “wholly-owned subsidiary” have the same meaning as in the Companies Act 1985;
- “successor company” means any company which, at a time when it is wholly owned by the Crown or is a wholly-owned subsidiary of the Authority, becomes entitled or subject, in accordance with a transfer scheme, to any property, rights or liabilities;
- “transfer scheme” has the meaning given by section 1 of this Act.
- (2) A company shall be regarded for the purposes of this Act as wholly owned by the Crown at any time when none of the issued shares in the company is held otherwise than by, or by a nominee of, the Treasury or the Secretary of State.
- (3) A successor company shall be regarded for the purposes of this Act as publicly owned at any time when it—
- (a) is wholly owned by the Crown, or  
(b) is a wholly-owned subsidiary of the Authority.

#### **14 Short title and extent**

- (1) This Act may be cited as the Atomic Energy Authority Act 1995.
- (2) This Act extends to Northern Ireland.