



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 2

#### TRANSFERS RELATING TO NUCLEAR UNDERTAKINGS

##### *Provisions relating to transfers*

#### **45 Further provision applying to transferee companies**

- (1) Schedule 7 (which makes provision about the finances and accounts of publicly controlled companies to which property, rights and liabilities are transferred) has effect.
- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices), insert (at the appropriate place)—

“Director of a publicly controlled company (within the meaning of Chapter 2 of Part 1 of the Energy Act 2004) to which transfers have been made in accordance with provisions of nuclear transfer schemes authorised by that Chapter.”;

and the corresponding amendment shall also be made in Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25).

#### **46 Pensions**

Schedule 8 (which makes provision about pensions in connection with transfers affecting nuclear undertakings) has effect.

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*Status: This is the original version (as it was originally enacted).*

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#### **47 Taxation**

Schedule 9 (which makes taxation provision in relation to nuclear transfer schemes) has effect.

#### **48 Supplementary powers of the Secretary of State, the NDA and the UKAEA**

- (1) The Secretary of State shall have power to enter into agreements for the purpose of accepting or imposing such contractual obligations as he thinks fit with respect to—
  - (a) nuclear transfer schemes and proposals for such schemes;
  - (b) anything connected with such a scheme or proposal; or
  - (c) the exercise of powers conferred on the Secretary of State or any other person by or under this Chapter.
- (2) The NDA and the UKAEA shall each have power to enter into agreements for the purpose of accepting or imposing such contractual obligations as it or they think fit with respect to—
  - (a) nuclear transfer schemes and proposals for such schemes;
  - (b) anything connected with such a scheme or proposal; or
  - (c) the exercise of powers conferred on it or them, or any other person, by or under this Chapter.
- (3) The NDA and the UKAEA shall also each have power to do anything else which, in its or their opinion, is appropriate for facilitating—
  - (a) a transfer which is or is proposed to be effected in accordance with a nuclear transfer scheme; or
  - (b) any other transfer of property, rights or liabilities of the NDA or (as the case may be) the UKAEA which is or is proposed to be effected for purposes connected with the carrying out by any person of any functions conferred on that person by or under this Part.
- (4) Agreements entered into in exercise of the powers conferred by subsection (1) or (2) may, in particular, include provision for the making of payments (whether by way of consideration or otherwise)—
  - (a) to the Secretary of State, or
  - (b) to the NDA or the UKAEA,
 in respect of anything transferred or created in accordance with a nuclear transfer scheme.
- (5) The consent of the Treasury is required for the Secretary of State or the UKAEA to enter into an agreement in exercise of those powers.
- (6) The consent of the Secretary of State is also required for the UKAEA to enter into an agreement in exercise of those powers.
- (7) Before making any disposal of securities of a company in a case in which—
  - (a) the disposal is made in accordance with arrangements entered into by the UKAEA for purposes connected with the carrying out of its functions by the NDA,
  - (b) those arrangements are not arrangements to which the Secretary of State has consented under subsection (6), and
  - (c) in the opinion of the UKAEA, the disposal is one which they would not have power to make but for section 1(2) of the Atomic Energy (Miscellaneous

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

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- Provisions) Act 1981 (c. 48) (disposal otherwise inconsistent with UKAEA functions),  
the UKAEA must consult the Secretary of State.
- (8) Subsection (4) of section 1 of the Atomic Energy (Miscellaneous Provisions) Act 1981 (which limits the cases in which the UKAEA may make share disposals that are inconsistent with its functions) shall not apply—
- (a) to anything done by the UKAEA in exercise of powers conferred on them by or under this Chapter; or
  - (b) to any disposal of securities in accordance with arrangements entered into by the UKAEA for purposes connected with the carrying out of its functions by the NDA.
- (9) Sums received by the Secretary of State in pursuance of an agreement under this section must be paid into the Consolidated Fund.
- (10) The powers conferred on the Secretary of State, the NDA and the UKAEA by this section—
- (a) are in addition to their powers apart from this section; and
  - (b) are to be disregarded in determining the extent of those powers.