



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 2

#### TRANSFERS RELATING TO NUCLEAR UNDERTAKINGS

##### *Transfer by scheme of property etc.*

### **39 Transfers of publicly owned assets**

- (1) A nuclear transfer scheme may provide for a transfer to—
  - (a) a publicly owned company,
  - (b) the NDA, or
  - (c) a consenting person,of property, rights and liabilities falling within subsection (2) that are set out in the scheme.
- (2) The property, rights and liabilities that may be transferred are—
  - (a) securities of BNFL;
  - (b) securities of a company falling within subsection (3);
  - (c) property, rights and liabilities of BNFL or the UKAEA;
  - (d) property, rights and liabilities of a company falling within subsection (3);
  - (e) property, rights and liabilities of a wholly-owned subsidiary of BNFL, of the UKAEA or of a company falling within that subsection.
- (3) A company falls within this subsection if—
  - (a) it is a nuclear company that is publicly owned; or

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) it is a company designated for the purposes of this section by an order made by the Secretary of State.
- (4) The Secretary of State may designate a company for the purposes of this section only if it is a publicly owned company to which—
- (a) securities of BNFL,
  - (b) property, rights or liabilities of BNFL, or
  - (c) property, rights or liabilities of a wholly-owned subsidiary of BNFL,
- were transferred (whether in accordance with a nuclear transfer scheme or otherwise) at a time when both the company and BNFL were publicly owned.
- (5) The Secretary of State must lay a copy of every order under subsection (3) before Parliament.
- (6) Nothing in this section authorises—
- (a) a transfer of securities of BNFL, or
  - (b) a transfer of property, rights or liabilities of BNFL or of a wholly-owned subsidiary of BNFL,
- at a time when BNFL is no longer publicly owned.
- (7) Nothing in this section authorises—
- (a) a transfer of securities of a company designated for the purposes of this section, or
  - (b) a transfer of property, rights or liabilities of such a company or of a wholly-owned subsidiary of such a company,
- at a time when the company is no longer publicly owned.
- (8) Schedule 6 (which makes provision about the structure etc. of publicly owned companies to which transfers are made that are authorised by this section) has effect.
- (9) For the purposes of this section a person is a consenting person, in relation to a nuclear transfer scheme, if he has consented to the provisions of the scheme so far as they relate to him.