



Nuclear Energy (Financing) Act 2022

2022 CHAPTER 15

PART 2

REVENUE COLLECTION CONTRACTS

Revenue collection contracts

15 Regulations about revenue collection contracts

- (1) The Secretary of State may by regulations make provision about revenue collection contracts.
- (2) A revenue collection contract is a contract in relation to which all of the following paragraphs apply—
 - (a) the contract is between a revenue collection counterparty and a nuclear company in relation to which, immediately before the contract was entered into, a designation under [section 2\(1\)](#) had effect;
 - (b) certain payments under the contract are to be funded by electricity suppliers (see further [section 19](#));
 - (c) those payments may be made both before and after the start of electricity generation by the nuclear energy generation project in respect of which the nuclear company holds a licence under section 6(1)(a) of the Electricity Act 1989;
 - (d) the contract is entered into by the revenue collection counterparty in pursuance of a direction given to it under [section 18](#).
- (3) For the purposes of this Part—
 - “revenue collection counterparty” is to be construed in accordance with [section 16](#);
 - “revenue regulations” means regulations under this section.
- (4) The provision made by this Part is without prejudice to the generality of subsection (1).
- (5) Revenue regulations may—

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- (a) include incidental, supplementary or consequential provision;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.
- (6) Revenue regulations are to be made by statutory instrument.
- (7) An instrument containing—
- (a) the first revenue regulations that make provision falling within [section 23](#) or [24](#), or
 - (b) revenue regulations that make provision falling within any of sections [16](#) to [22](#),
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament (in each case, whether or not the regulations also make other provision).
- (8) Any other instrument containing revenue regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) If, apart from this subsection, a draft of an instrument containing revenue regulations would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

16 Designation of a revenue collection counterparty

- (1) The Secretary of State may by notice given to an eligible person designate the person to be a counterparty for revenue collection contracts.
- (2) A person designated under [subsection \(1\)](#) is referred to in this Part as a “revenue collection counterparty”.
- (3) A person is eligible if the person is—
- (a) a company registered under the Companies Act 2006 in England and Wales or Scotland, or
 - (b) a public authority, including a person any of whose functions are of a public nature.
- (4) A designation may be made only with the consent of the person designated.
- (5) The Secretary of State may exercise the power to designate so that more than one designation has effect under [subsection \(1\)](#), but only if the Secretary of State considers it necessary for the purposes of ensuring that—
- (a) liabilities under a revenue collection contract are met,
 - (b) arrangements entered into for purposes connected to a revenue collection contract continue to operate, or
 - (c) directions given to a revenue collection counterparty by virtue of this Part continue to have effect.
- (6) A designation ceases to have effect if—
- (a) the Secretary of State revokes the designation by notice given to the person designated (in which case the designation ends on the date specified in the notice), or

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- (b) the person withdraws consent to the designation by giving not less than 3 months' notice in writing to the Secretary of State.
- (7) At any time after the first designation under [subsection \(1\)](#) has effect, the Secretary of State must, so far as reasonably practicable, exercise the power to designate so as to ensure that at least one designation has effect under [subsection \(1\)](#).
- (8) The Secretary of State must publish a notice given to a person under [subsection \(1\)](#) or [\(6\)\(a\)](#).
- (9) As soon as reasonably practicable after a designation ceases to have effect, the Secretary of State must make a transfer scheme under [section 26](#) to ensure the transfer of all rights and liabilities under any revenue collection contract to which the person who has ceased to be a revenue collection counterparty was a party.
- (10) Revenue regulations may include provision about the period of time for which, and the circumstances in which, a person who has ceased to be a revenue collection counterparty is to continue to be treated as a revenue collection counterparty for the purposes of the regulations.

17 Duties of a revenue collection counterparty

- (1) A revenue collection counterparty must act in accordance with—
 - (a) any direction given by the Secretary of State by virtue of this Part;
 - (b) any provision included in revenue regulations.
- (2) Revenue regulations may make provision—
 - (a) to require a revenue collection counterparty to enter into arrangements or to offer to contract for purposes connected to a revenue collection contract;
 - (b) specifying things that a revenue collection counterparty may or must do, or things that a revenue collection counterparty may not do;
 - (c) conferring on the Secretary of State further powers to direct a revenue collection counterparty to do, or not to do, things specified in the regulations or the direction.
- (3) The provision that may be made by virtue of [subsection \(2\)\(b\)](#) or [\(c\)](#) includes provision requiring consultation with, or the consent of, the Secretary of State in relation to—
 - (a) the enforcement of obligations under a revenue collection contract;
 - (b) a variation or termination of a revenue collection contract;
 - (c) the settlement or compromise of a claim under a revenue collection contract;
 - (d) the conduct of legal proceedings relating to a revenue collection contract;
 - (e) the exercise of rights under a revenue collection contract.
- (4) A revenue collection counterparty must exercise the functions conferred by or by virtue of this Part so as to ensure that it can meet its liabilities under any revenue collection contract to which it is a party.
- (5) Revenue regulations must include such provision as the Secretary of State considers necessary so as to ensure that a revenue collection counterparty can meet its liabilities under any revenue collection contract to which it is a party.

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18 Direction to offer to contract

- (1) The Secretary of State may, in accordance with any provision made by revenue regulations, direct a revenue collection counterparty to offer to contract with a designated nuclear company specified in the direction, on terms specified in the direction.
- (2) Revenue regulations may make further provision about a direction under this section and in particular about—
 - (a) the circumstances in which a direction may or must be given;
 - (b) the terms that may or must be specified in a direction.
- (3) The provision that may be made by virtue of [subsection \(2\)](#) includes provision for calculations or determinations to be made under the regulations, including provision for them to be made—
 - (a) by such persons,
 - (b) in accordance with such procedure, and
 - (c) by reference to such matters and to the opinion of such persons,as may be specified in the regulations.
- (4) The reference in [subsection \(1\)](#) to a designated nuclear company is a reference to a nuclear company in relation to which a designation under [section 2\(1\)](#) has effect.

Payment and other obligations relating to revenue collection contracts

19 Supplier obligation

- (1) Revenue regulations must make provision for electricity suppliers to pay a revenue collection counterparty for the purpose of enabling the counterparty to make payments under revenue collection contracts.
- (2) Revenue regulations may make provision for electricity suppliers to pay a revenue collection counterparty for the purpose of enabling the counterparty—
 - (a) to meet such other descriptions of its costs as the Secretary of State considers appropriate;
 - (b) to hold sums in reserve;
 - (c) to cover losses in the case of insolvency or default of an electricity supplier.
- (3) In [subsection \(2\)\(a\)](#), “costs” means costs in connection with the performance of any function conferred by or by virtue of this Part.
- (4) Revenue regulations may make provision to require electricity suppliers to provide financial collateral to a revenue collection counterparty (whether in cash, securities or any other form).
- (5) Revenue regulations that make provision by virtue of [subsection \(1\)](#) for the payment of sums by electricity suppliers must impose on a revenue collection counterparty a duty in relation to the collection of such sums.
- (6) The provision that may be made by virtue of this section includes provision for—
 - (a) a revenue collection counterparty to determine the form and terms of any financial collateral;

- (b) a revenue collection counterparty to calculate or determine, in accordance with such criteria as may be provided for by or under the regulations, amounts that are owed by an electricity supplier or are to be provided as financial collateral by an electricity supplier;
 - (c) the issuing of notices by a revenue collection counterparty to require the payment or provision of such amounts;
 - (d) the enforcement of obligations arising under such notices.
- (7) Provision made by virtue of [subsection \(6\)\(b\)](#) may provide for anything that is to be calculated or determined under the regulations to be calculated or determined—
- (a) by such persons,
 - (b) in accordance with such procedure, and
 - (c) by reference to such matters and to the opinion of such persons,
- as may be specified in the regulations.
- (8) Provision made by virtue of [subsection \(6\)\(d\)](#) may include provision about—
- (a) costs;
 - (b) interest on late payments under notices;
 - (c) references to arbitration;
 - (d) appeals.
- (9) Any sum that—
- (a) an electricity supplier is required by virtue of revenue regulations to pay to a revenue collection counterparty, and
 - (b) has not been paid by the date on which it is required by virtue of revenue regulations to be paid,
- may be recovered from the electricity supplier by the revenue collection counterparty as a civil debt due to it.

20 Payments to electricity suppliers

- (1) Revenue regulations may make provision about the amounts that must be paid by a revenue collection counterparty to electricity suppliers.
- (2) The provision that may be made by virtue of this section includes provision—
- (a) for a revenue collection counterparty to calculate or determine, in accordance with such criteria as may be provided for by or under the regulations, amounts that are owed by the revenue collection counterparty;
 - (b) for anything that is to be calculated or determined under the regulations to be calculated or determined—
 - (i) by such persons,
 - (ii) in accordance with such procedure, and
 - (iii) by reference to such matters and to the opinion of such persons,as may be specified in the regulations.

21 Application of sums held by a revenue collection counterparty

- (1) Revenue regulations may make provision for apportioning sums—
- (a) received by a revenue collection counterparty from electricity suppliers under provision made by virtue of [section 19](#);

- (b) received by a revenue collection counterparty under a revenue collection contract,
in circumstances where the revenue collection counterparty is unable to fully meet its liabilities under a revenue collection contract.
- (2) The provision that may be made by virtue of [subsection \(1\)](#) includes provision about the meaning of “unable to fully meet its liabilities under a revenue collection contract”.
- (3) In making provision by virtue of [subsection \(1\)](#), the Secretary of State must have regard to the principle that sums should be apportioned in proportion to the amounts that are owed.
- (4) Revenue regulations may make provision about the application of sums held by a revenue collection counterparty.
- (5) The provision that may be made by virtue of [subsection \(4\)](#) includes provision that sums are to be paid, or not to be paid, into the Consolidated Fund.

22 Enforcement

- (1) Revenue regulations may make provision for requirements under the regulations to be enforceable by the Authority as if they were relevant requirements imposed on a regulated person for the purposes of section 25 of the Electricity Act 1989.
- (2) The provision that may be made by virtue of [subsection \(1\)](#) includes provision about the enforcement of requirements imposed on the national system operator.

Information and advice

23 Information and advice

- (1) Revenue regulations may make provision about the provision and publication of information and advice.
- (2) The provision that may be made by virtue of [subsection \(1\)](#) includes provision—
- (a) for the Secretary of State to require a revenue collection counterparty, the Authority or the national system operator to provide information or advice to the Secretary of State or any other person specified in the regulations;
 - (b) for the Secretary of State to require a relevant licensee nuclear company, or a nuclear administrator (within the meaning of [Part 3](#)), to provide information to the Secretary of State or any other person specified in the regulations;
 - (c) for a revenue collection counterparty to require information to be provided to it by electricity suppliers;
 - (d) for the national system operator to require information to be provided to it by a relevant licensee nuclear company;
 - (e) for the Authority to require information to be provided to it by a revenue collection counterparty or the national system operator;
 - (f) for the sharing of information (otherwise than by virtue of [paragraph \(e\)](#)) between the Authority, a revenue collection counterparty and the national system operator;
 - (g) for the classification and protection of confidential or sensitive information;

- (h) for the enforcement of any requirement imposed by virtue of paragraphs (a) to (g).

24 Functions of the Authority

Revenue regulations may make provision conferring functions on the Authority for the purpose of offering advice to, or making determinations on behalf of, a party to a revenue collection contract.

Consultation

25 Consultation

- (1) Before making revenue regulations, the Secretary of State must consult—
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) every nuclear company in relation to which a designation under section 2(1) has effect,
 - (d) every nuclear company that is a relevant licensee nuclear company,
 - (e) every holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989,
 - (f) the Authority,
 - (g) the national system operator, and
 - (h) such other persons as the Secretary of State considers appropriate.
- (2) Subsection (1) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).

Transfer schemes

26 Revenue collection counterparties: transfer schemes

- (1) The Secretary of State may make one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a revenue collection counterparty (“the transferor”) to a person who is a revenue collection counterparty (“the transferee”).
- (2) On the transfer date, the designated property, rights and liabilities are transferred and vest in accordance with the scheme.
- (3) The rights and liabilities that may be transferred by a scheme include those arising under or in connection with a contract of employment.
- (4) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.
- (5) A scheme may make provision—
 - (a) for anything done by or in relation to the transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee;

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- (b) for references to the transferor in any agreement (whether written or not), instrument or other document relating to any property, rights or liabilities transferred by the scheme to be treated as references to the transferee;
 - (c) about the continuation of legal proceedings;
 - (d) for transferring property, rights or liabilities that could not otherwise be transferred or assigned;
 - (e) for transferring property, rights and liabilities irrespective of any requirement for consent that would otherwise apply;
 - (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
 - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
 - (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
 - (i) for apportioning property, rights or liabilities;
 - (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
 - (k) for requiring the transferee to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (6) Subsection (5)(b) does not apply to references in—
- (a) primary legislation, or
 - (b) an instrument made under primary legislation.
- (7) A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.
- (8) A transfer scheme may—
- (a) include incidental, supplementary or consequential provision;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different purposes;
 - (d) make provision subject to exceptions.
- (9) In this section—
- “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
 - “primary legislation” means—
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) an Act or Measure of Senedd Cymru, or
 - (d) Northern Ireland legislation;
 - “property” includes interests of any description;
 - “the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.

27 Modification of transfer schemes

- (1) The Secretary of State may modify a transfer scheme made under [section 26](#), subject to [subsection \(2\)](#).

- (2) If a transfer under the scheme has taken effect, any modification under [subsection \(1\)](#) that relates to the transfer may be made only with the agreement of the transferor or transferee affected by the modification (or, where both the transferor and transferee are affected, with the agreement of both of them).
- (3) A modification takes effect from such date as the Secretary of State may specify (which may be the date when the original scheme came into effect).

Miscellaneous and interpretation

28 Shadow directors, etc

The Secretary of State is not, by virtue of the exercise of a power conferred by or by virtue of this Part, to be regarded as—

- (a) a person occupying the position of director in relation to a revenue collection counterparty;
- (b) a person in accordance with whose directions or instructions the directors of a revenue collection counterparty are accustomed to act;
- (c) exercising any function of management in a revenue collection counterparty;
- (d) a principal of a revenue collection counterparty.

29 Licence modifications

- (1) The Secretary of State may modify—
 - (a) a condition of a particular licence under section 6(1)(b) or (c) of the Electricity Act 1989 (transmission and distribution licences);
 - (b) the standard conditions incorporated in licences under section 6(1)(b) or (c) of the Electricity Act 1989 by virtue of section 8A of that Act;
 - (c) a document maintained in accordance with the conditions of licences under section 6(1)(b) or (c) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (2) The Secretary of State may make a modification under [subsection \(1\)](#) only for the purpose of—
 - (a) allowing or requiring services to be provided to a revenue collection counterparty;
 - (b) enforcing obligations under a revenue collection contract.
- (3) Provision included in a licence, or in a document or agreement relating to licences, by virtue of [subsection \(1\)](#) may in particular include provision of a kind that may be included in revenue regulations.
- (4) Before making a modification under [subsection \(1\)](#), the Secretary of State must consult—
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) the holder of any licence being modified,
 - (d) every holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989,
 - (e) the Authority, and

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- (f) such other persons as the Secretary of State considers appropriate.
- (5) **Subsection (4)** may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).
- (6) The power under **subsection (1)**—
- (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) includes power to make incidental, supplementary, consequential or transitional modifications.
- (7) Provision included in a licence, or in a document or agreement relating to licences, by virtue of **subsection (1)**—
- (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(2A), (3), (4), (5) or (6A) of the Electricity Act 1989.
- (8) The Secretary of State must publish details of any modifications made under **subsection (1)** as soon as reasonably practicable after they are made.
- (9) If under **subsection (1)** 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.
- (10) A modification made under **subsection (1)** 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.
- (11) The power conferred by **subsection (1)** to “modify” (in relation to licence conditions or a document or agreement) includes power to amend, add to or remove, and references to modifications are to be construed accordingly.

30 Interpretation of Part 2

In this Part—

“the Authority” means the Gas and Electricity Markets Authority;

“electricity supplier”, subject to any provision made by revenue regulations, means a person who is a holder of a licence to supply electricity under section 6(1)(d) of the Electricity Act 1989;

“functions” includes powers and duties;

“national system operator” means the person operating the national transmission system for Great Britain (and for this purpose “transmission system” has the same meaning as in the Electricity Act 1989, as to which see section 4(4) of that Act);

“nuclear company” and “relevant licensee nuclear company” have the same meaning as in **Part 1**.