



# Energy Act 2023

## 2023 CHAPTER 52

### PART 14

#### CIVIL NUCLEAR SECTOR

### CHAPTER 4

#### GREAT BRITISH NUCLEAR

##### *Transfers and pension arrangements etc*

#### 324 Transfer schemes

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—
  - (a) to a GBN body or a proposed GBN body from—
    - (i) a former GBN body;
    - (ii) a GBN body;
    - (iii) a proposed GBN body;
    - (iv) a Minister of the Crown or Crown body;
    - (v) a designated BNFL body;
    - (vi) an NDA body;
    - (vii) a UKAEA body;
    - (viii) a nominee of a person falling within any of sub-paragraphs (i) to (vii);
  - (b) to a former GBN body, a Minister of the Crown or Crown body, a designated BNFL body or a public body from—
    - (i) a former GBN body;
    - (ii) a GBN body.
- (2) The things that may be transferred under a transfer scheme include—
  - (a) rights and liabilities relating to a contract of employment;

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*Status: Point in time view as at 31/01/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Section 324. (See end of Document for details)*

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- (b) property, rights and liabilities that could not otherwise be transferred;
  - (c) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (d) criminal liabilities.
- (3) A transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property, rights or liabilities transferred;
  - (b) make provision about the continuing effect of things done by a transferor in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to a transferor in respect of anything transferred;
  - (d) make provision for references to a transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
  - (e) make provision for shared ownership or use of the property;
  - (f) make provision for apportioning property, rights or liabilities;
  - (g) require a transferor, an associate of a transferor, or a transferee, to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme;
  - (h) make provision for transferring property, rights and liabilities irrespective of any requirement for consent that would otherwise apply;
  - (i) make provision 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;
  - (j) make provision for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
  - (k) make provision for reimbursing any person in respect of expenditure reasonably incurred by the person in connection with the making of a transfer scheme;
  - (l) make provision that has the same or similar effect to the TUPE regulations;
  - (m) make other consequential, supplementary, incidental or transitional provision.
- (4) A transfer scheme may provide—
- (a) for modifications by agreement;
  - (b) for modifications to have effect from the date when the original scheme came into effect.
- (5) A transfer scheme may make provision requiring a transferor to provide such co-operation to a transferee as the transferee may reasonably require in connection with the implementation of the scheme.
- (6) The co-operation that may be required by virtue of [subsection \(5\)](#) includes, in particular, co-operation in relation to—
- (a) the provision of information;
  - (b) consultation with representatives of employees transferred by the scheme.
- (7) Any requirement imposed on a person by a transfer scheme is enforceable by the Secretary of State in civil proceedings—
- (a) for an injunction,

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- (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) for any other appropriate remedy or relief.
- (8) Before making a transfer scheme, the Secretary of State must consult—
- (a) the transferor (or, if there is more than one transferor, the transferors), and
  - (b) such other persons as the Secretary of State considers appropriate.
- (9) [Subsection \(8\)](#) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).
- (10) The making of a transfer scheme is not a trigger event for the purposes of the National Security and Investment Act 2021.
- (11) In this section—
- “associate” has the meaning given by section 1152 of the Companies Act 2006;
  - “company” means a company registered under the Companies Act 2006;
  - “Crown body” means any body corporate in which a Minister of the Crown holds, directly or indirectly, any shares or other interest;
  - “designated BNFL body” means a company designated for the purposes of Schedule 7 to the Energy Act 2004 or any body corporate in which a company designated for those purposes holds, directly or indirectly, any shares or other interest;
  - “former GBN body” means—
    - (a) a company formerly designated as Great British Nuclear, or
    - (b) any body corporate in which a company formerly designated as Great British Nuclear—
      - (i) holds, directly or indirectly, any shares or other interest, and
      - (ii) held, directly or indirectly, any shares or other interest, at a time at which it was designated as Great British Nuclear;
  - “GBN body” means Great British Nuclear or any body corporate in which Great British Nuclear holds, directly or indirectly, any shares or other interest;
  - “information” includes documents;
  - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (see section 8(1) of that Act);
  - “NDA company” means the Nuclear Decommissioning Authority (established by section 1 of the Energy Act 2004) or any body corporate in which the Nuclear Decommissioning Authority holds, directly or indirectly, any shares or other interest;
  - “proposed GBN body” means a company that the Secretary of State proposes to designate as Great British Nuclear or any body corporate in which a company proposed to be designated for those purposes holds, directly or indirectly, any shares or other interest;
  - “public body” means a body established by an enactment (within the meaning of [Part 1](#) of this Act) or any body corporate in which a body established by an enactment holds, directly or indirectly, any shares or other interest;
  - “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([S.I. 2006/246](#));

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“UKAEA body” means the United Kingdom Atomic Energy Authority (established by section 1 of the Atomic Energy Authority Act 1954) or any body corporate in which the United Kingdom Atomic Energy Authority holds, directly or indirectly, any shares or other interest.

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**Commencement Information**

**II** S. 324 in force at Royal Assent, see [s. 334\(2\)\(o\)](#)

**Status:**

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