
EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates companies which are publicly controlled companies to which either securities of the Nuclear Fuels Company (within the meaning of the Atomic Energy Authority Act 1971⁽¹⁾) (“BNFL”) or property or rights or liabilities of BNFL or a wholly owned subsidiary of BNFL have been transferred.

The designation of these companies is for several purposes. Schedule 7 to the Energy Act 2004 makes provision about the finances and accounts of certain companies to which property, rights or liabilities are transferred, whether in accordance with a nuclear transfer scheme or otherwise. A nuclear transfer scheme is a scheme providing for one or more transfers authorised by Chapter 2 of Part 1 of the Energy Act 2004. Paragraph 2 of Schedule 7 to the Energy Act 2004 gives the Secretary of State power (subject to paragraphs 5 and 6) to make loans to designated BNFL companies; paragraph 3 of Schedule 7 applies section 1 of the Nuclear Industry (Finance) Act 1977 (c. 7) to designated BNFL companies, thereby giving power to the Secretary of State to give guarantees in respect of the liabilities of such companies (subject to the limits of that Act, as modified by paragraph 5 of Schedule 7 to the Energy Act 2004).

Paragraph 5 of Schedule 7 extends the provisions of the Nuclear Industry (Finance) Act 1977 concerning guarantees to BNFL, and limits on possible government financial commitments to that company to cover designated BNFL companies.

Paragraph 6 of Schedule 7 sets out borrowing limits on transferee companies that have had property, rights or liabilities transferred to them in accordance with a nuclear transfer scheme, but are not designated BNFL companies. Designation for the purposes of the Schedule therefore excludes transferee companies from paragraph 5 and brings them within paragraph 6.

The remaining provisions of Schedule 7, which relate to temporary restrictions on borrowing of transferee companies and statutory accounts of transferee companies, and require Crown owned transferee companies to lay their accounts before Parliament, apply irrespective of whether or not the companies in question are designated BNFL companies.

The Order also designates companies for the purposes of Schedule 8, which concerns pensions. The United Kingdom Atomic Energy Authority (“UKAEA”) Pension Scheme was set up under paragraph 7(2) of the Atomic Energy Act 1954⁽²⁾. The designation of these companies is to enable the Secretary of State to give a direction to the UKAEA to modify its pension scheme in respect of the participation of employees and directors and other officers (who are not employees) of these companies, whilst companies are still publicly controlled.

For the purposes of Part 4 of Schedule 8 of the Energy Act 2004, a person is entitled to pension protection if he is a public sector employee immediately before a date designated by the Secretary of State by Order. This Order designates that date as 1 April 2005.

(1) 1971 c. 11
(2) 1954 c. 32