



# Electricity Act 1989

## 1989 CHAPTER 29

### PART II

#### REORGANISATION OF THE INDUSTRY

##### *Ownership of successor companies*

#### **71 Initial Government holding in the companies**

- (1) As a consequence of the vesting in a company nominated for the purposes of section 65(1), 66(1) or (2) or 67(1) above (in this Part referred to as a “successor company”) of any property, rights and liabilities, the company shall issue such securities of the company as the Secretary of State may from time to time direct—
  - (a) to the Treasury or the Secretary of State; or
  - (b) to any person entitled to require the issue of the securities following their initial allotment to the Treasury or the Secretary of State.
- (2) The Secretary of State shall not give a direction under subsection (1) above in relation to a successor company at a time when the company has ceased to be wholly owned by the Crown.
- (3) Securities required to be issued in pursuance of this section shall be issued or allotted at such time or times and on such terms as the Secretary of State may direct.
- (4) Shares in a company which are issued in pursuance of this section—
  - (a) shall be of such nominal value as the Secretary of State may direct; and
  - (b) shall be issued as fully paid and treated for the purposes of the Companies Act 1985 as if they had been paid up by virtue of the payment to the company of their nominal value in cash.
- (5) The Secretary of State shall not exercise any power conferred on him by this section, or dispose of any securities issued or of any rights to securities initially allotted to him in pursuance of this section, without the consent of the Treasury.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Any dividends or other sums received by the Treasury or the Secretary of State in right of or on the disposal of any securities or rights acquired by virtue of this section shall be paid into the Consolidated Fund.

## **72 Government investment in securities of the companies**

- (1) The Treasury or, with the consent of the Treasury, the Secretary of State may at any time acquire—
- (a) securities of a successor company; or
  - (b) rights to subscribe for any such securities.
- (2) The Secretary of State shall not dispose of any securities or rights acquired under this section without the consent of the Treasury.
- (3) Any expenses incurred by the Treasury or the Secretary of State in consequence of the provisions of this section shall be paid out of money provided by Parliament.
- (4) Any dividends or other sums received by the Treasury or the Secretary of State in right of, or on the disposal of, any securities or rights acquired under this section shall be paid into the Consolidated Fund.

## **73 Exercise of functions through nominees**

- (1) The Treasury or, with the consent of the Treasury, the Secretary of State may, for the purposes of section 71 or 72 above or section 80 below, appoint any person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State; and—
- (a) securities of a successor company may be issued under section 71 above or section 80 below to any nominee of the Treasury or the Secretary of State appointed for the purposes of that section or to any person entitled to require the issue of the securities following their initial allotment to any such nominee; and
  - (b) any such nominee appointed for the purposes of section 72 above may acquire securities or rights under that section,
- in accordance with directions given from time to time by the Treasury or, with the consent of the Treasury, by the Secretary of State.
- (2) Any person holding any securities or rights as a nominee of the Treasury or the Secretary of State by virtue of subsection (1) above shall hold and deal with them (or any of them) on such terms and in such manner as the Treasury or, with the consent of the Treasury, the Secretary of State may direct.

## **74 Target investment limit for Government shareholding**

- (1) As soon as he considers expedient and, in any case, not later than six months after any operating company ceases to be wholly owned by the Crown, the Secretary of State shall by order fix a target investment limit in relation to the shares for the time being held in that company by virtue of any provision of this Part by the Treasury and their nominees and by the Secretary of State and his nominees (in this section referred to as “the Government shareholding”).
- (2) The target investment limit for the Government shareholding in an operating company shall be expressed as a proportion of the voting rights which are exercisable in all

circumstances at general meetings of the company (in this section referred to as “the ordinary voting rights”).

- (3) The first target investment limit fixed under this section for the Government shareholding in a particular company shall not exceed, by more than 0.5 per cent. of the ordinary voting rights, the proportion of those rights which is in fact carried by the Government shareholding in that company at the time when the order fixing the limit is made.
- (4) The Secretary of State may from time to time by order fix a new target investment limit for the Government shareholding in an operating company in place of the one previously in force under this section; but—
  - (a) any new limit must be lower than the one it replaces; and
  - (b) an order under this section may only be revoked by an order fixing a new limit.
- (5) It shall be the duty of the Treasury and of the Secretary of State so to exercise—
  - (a) their powers under section 72 above and any power to dispose of any shares held by virtue of any provision of this Part; and
  - (b) their power to give directions to their respective nominees,as to secure in relation to each operating company that the Government shareholding in that company does not carry a proportion of the ordinary voting rights exceeding any target investment limit for the time being in force under this section in relation to that company.
- (6) Notwithstanding subsection (5) above but subject to subsection (7) below, the Treasury or the Secretary of State may take up, or direct any nominee of the Treasury or of the Secretary of State to take up, any rights which are for the time being available to them or him, or to the nominee, either—
  - (a) as an existing holder of shares or other securities of an operating company; or
  - (b) by reason of the rescission of any contracts for the sale of such shares or securities.
- (7) If, as a result of anything done under subsection (6) above, the proportion of the ordinary voting rights carried by the Government shareholding in an operating company at any time exceeds the target investment limit for the time being in force under this section in relation to that company, it shall be the duty of the Treasury or, as the case may be, the Secretary of State to comply with subsection (5) above as soon after that time as is reasonably practicable.
- (8) For the purposes of this section the temporary suspension of any of the ordinary voting rights shall be disregarded.
- (9) The Secretary of State shall not exercise any power conferred on him by this section except with the consent of the Treasury.
- (10) In this Part “operating company” means a supply company, the transmission company, a generating company, a Scottish electricity company or the Scottish nuclear company.