## **EXPLANATORY NOTES**

## **ENERGY ACT 2004**

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**OVERVIEW** 

#### TERRITORIAL EXTENT AND TERRITORIAL APPLICATION

**Scotland** 

Wales

**Northern Ireland** 

## THE ACT

## PART 1: THE CIVIL NUCLEAR INDUSTRY SUMMARY AND BACKGROUND

**Chapters 1 and 2: Nuclear Decommissioning and Transfers Relating to Nuclear Undertakings** 

**Chapter 3: Civil Nuclear Constabulary** 

**Chapter 4: Authorisations Relating to Radioactive Waste** 

**Chapter 5: Miscellaneous Provisions Relating to Nuclear Industry** 

**Nuclear Liability** 

**Nuclear Security** 

**Authorisation of Government expenditure** 

Option to purchase BE's nuclear stations from third party

Option for the Secretary of State to acquire BE's shares in Nirex

## **COMMENTARY ON SECTIONS**

## **Chapter 1: Nuclear Decommissioning**

Section 1: The Nuclear Decommissioning Authority

Section 2 and Schedule 1: Constitution of NDA

Section 3: Designated responsibilities

Section 4: Additional responsibilities under designating directions Section 5: Supplemental provisions of designating directions Section 6: Designations relating to Scotland Section 7: Supplemental functions Section 8: Special functions in relation to pensions etc. Section 9: General duties when carrying out functions Section 10: Powers for carrying out functions Section 11 and Schedule 2: Strategy for carrying out functions Section 12: Contents of strategy Section 13 and Schedule 3: Annual plans Section 14: Annual reports Section 15: Duty to decommission and clean up installations and sites Section 16: Duties to operate installations and provide treatment, etc Section 17: Duty to use installations etc for purposes of NDA Section 18: Directions by NDA to the person with control Section 19: Designation as a related site for the purpose of section 18 Section 20: Duty to comply with directions under section 18 Section 21: Financial responsibilities of NDA Section 22: Expenditure and receipts of NDA Section 23: Borrowing by the NDA Sections 24 and 25: Limit on NDA borrowing and Government guarantees for NDA borrowing Section 26: Accounts of NDA Section 27 and Schedule 4: Tax exemption for NDA activities Section 28: Taxation of NDA activities chargeable under Case VI of Schedule D Section 29: Disregard for tax purposes of cancellation etc of provisions

2

Section 30: Disregard for tax purposes of provisions recognised by NDA

Section 31: Establishment and maintenance of the Account

Section 32: Examination of the Account

Section 33: Validity of transactions

- Section 34: Amendment of Schedule 12 to Electricity Act 1989
- Section 35: Power to modify Chapter 1 of Part 1
- Section 36: Meaning of "nuclear site" etc and "person with control"
- Section 37: General interpretation of Chapter 1 of Part 1

## **Chapter 2: Transfers Relating to Nuclear Undertakings**

- Section 38 and Schedule 5: Nuclear transfer schemes
- Section 39 and Schedule 6: Transfers of publicly owned assets
- Section 40: Transfers with the consent of the transferor
- Section 41: Recovery of property from private ownership
- Section 42: Transfer of Nuclear Liabilities Investment Portfolio
- Section 43: Undertakings given by the Secretary of State
- Section 44: Extinguishment of BNFL losses for tax purposes
- Section 45 and Schedule 7: Further provisions applying to transferee companies
- Section 46 and Schedule 8: Pensions
- Section 47 and Schedule 9: Taxation
- Section 48: Supplementary powers of the Secretary of State, the NDA and UKAEA
- Section 49: Duty to assist the Secretary of State
- Section 50: Interpretation of Chapter 2 of Part 1

## **Chapter 3: Civil Nuclear Constabulary**

- Section 51 and Schedule 10: The Civil Nuclear Police Authority
- Section 52: The Civil Nuclear Constabulary
- Section 53 and Schedule 11: Chief Constable and other senior officers
- Section 54: Functions of senior officers
- Section 55: Members of the Constabulary
- Section 56: Jurisdiction of Constabulary
- Section 57: Stop and search under Terrorism Act 2000
- Section 58: Government, administration and conditions of service
- Section 59: Members of the Constabulary serving with other forces
- Section 60: Charges

- Section 61 and Schedule 12: Planning and reports
- Section 62: Inspection
- Section 63 and Schedule 13: Supervision by Secretary of State
- Section 64: Civil Nuclear Police Federation
- Section 65: Rank related associations
- Section 66: Representation at certain disciplinary proceedings
- Section 67: Trade union membership
- Section 68: Application of offences etc applying to constables
- Section 69 and Schedule 14: Minor amendments relating to the Constabulary
- Section 70: Nuclear transfer scheme for UKAEA Constabulary

## **Chapter 4: Authorisations Relating to Radioactive Waste**

- Section 72: Transfer of authorisations
- Section 73: Applications for variation of authorisations
- Section 74: Periodic reviews of authorisations
- Section 75 and Schedule 15: Consequential amendments of the 1993 Act

## **Chapter 5: Miscellaneous Provisions Relating to Nuclear Industry**

- Section 76: Amendment for giving effect to international obligations
- Section 77: Regulation of equipment, software and information
- Section 78: Application of the 1965 Act to Northern Ireland
- Section 79: Expenditure on nuclear related matters
- Section 80: Additional functions of UKAEA

# PART 2: SUSTAINABILITY AND RENEWABLE ENERGY SOURCES SUMMARY AND BACKGROUND

- **Chapter 1: Sustainable Energy**
- **Chapter 2: Offshore production of energy and Chapter 3: Decommissioning of offshore installations**
- **Chapter 4: Renewables Obligations relating to Electricity**
- **Chapter 5: Renewable transport fuel obligations**

#### **COMMENTARY ON SECTIONS**

## PART 2: SUSTAINABILITY AND RENEWABLE ENERGY SOURCES

# **Chapter 1: Sustainable Energy**

Section 81: Reports under section 1 of the Sustainable Energy Act 2003

Section 82: Microgeneration

Section 83: Sustainable development

## **Chapter 2: Offshore Production of Energy**

Section 84: Exploitation of areas outside the territorial sea for energy production

Section 85: Application of criminal law to renewable energy installations

Section 86: Prosecutions

Section 87: Application of civil law to renewable energy installations

Section 88: Orders in Council under sections 85 and 87

Section 89: Activities offshore requiring 1989 Act licences

Section 90: Modification of licence conditions for offshore transmission and distribution

Section 91: Extension of transmission licences offshore

Section 92: Competitive tenders for offshore transmission licences

Section 93: Consents for generating stations offshore

Section 94: Application of regulations under 1989 Act offshore

Sections 95 to 98: Safety zones for installations

Sections 99 and 100: Navigation and public rights of navigation

Section 101: Application of civil aviation regulations to renewable energy installations

Section 103: Other amendments consequential on Chapter 2 of Part 2

## **Chapter 3: Decommissioning of Offshore Installations**

Section 105: Requirement to prepare decommissioning programmes

Sections 106 and 107: Approval of decommissioning programmes and failure to submit or rejection of decommissioning programmes

Section 108: Reviews and revisions of decommissioning programmes

Section 109: Carrying out of decommissioning programmes and section 110: Default in carrying out decommissioning programmes

## **Chapter 4: Renewables Obligations Relating to Electricity**

Section 115: Discharge of renewables obligation in Great Britain by payment

- Section 116: Issue of green certificates in Great Britain
- Section 117: Use of green certificates issued in Northern Ireland
- Section 118: Distributions to Northern Ireland suppliers
- Section 120: Issue of green certificates in Northern Ireland
- Section 121: GEMA's power to act on behalf of Northern Ireland regulator
- Section 122: Consultation in relation to Northern Ireland renewables orders
- Section 123: Modification of conditions of Northern Ireland electricity licenses

# **Chapter 5: Renewable Transport Fuel Obligations**

- Section 124: Imposition of renewable transport fuel obligations
- Section 125: The Administrator
- Section 126: Determinations of amounts of transport fuel
- Section 127: Renewable transport fuel certificates
- Section 128: Discharge of obligation by payment
- Section 129: Imposition of civil penalties
- Section 130: Objections to civil penalties
- Section 131: Appeals against civil penalties
- Section 132: Interpretation

## PART 3: ENERGY REGULATION SUMMARY AND BACKGROUND

## **Chapter 1: Electricity Trading and Transmission**

**England and Wales** 

**Scotland** 

**Europe** 

**Main provisions** 

**Chapter 2: Interconnectors for Electricity and Gas** 

**Chapter 3: Special Administration Regime for Energy licensees** 

**Chapter 4: Further Provisions about Regulation** 

Annual report on security of energy supplies

**Appeals from GEMA decisions** 

Meaning of electricity supply

Meaning of "high voltage line"

**Prepayment meters** 

Inquiries under sections 36 and 37 of the 1989 Act

**Exclusion of confidential information from the Register** 

Assistance for areas with high distribution costs

**Payments into the Scottish Consolidated Fund** 

## **COMMENTARY ON SECTIONS**

# **Chapter 1: Electricity Trading and Transmission**

Section 133: "New trading and transmission arrangements"

Section 134: Power to modify licence conditions

Section 135: Alteration of transmission activities requiring licence

Section 136: Transmission licences

Section 137: New standard conditions for transmission licences

Section 138 and Schedule 17: Conversion of existing transmission licences

Section 139: Grant of transmission licences

Section 141 and Schedule 18: Property arrangements scheme

Section 143 and Schedule 19: Amendments consequential on Chapter 1 of Part 3

## **Chapter 2: Interconnectors for Electricity and Gas**

Sections 145 to 148: licensing of electricity interconnectors

Sections 149 to 153: Gas interconnectors

## **Chapter 3: Special Administration Regime for Energy Licensees**

Section 154: Energy administration orders

Section 155: Objective of an energy administration

Section 156: Applications for energy administration orders

Section 157: Powers of court

Section 158: Energy administrators

Section 159 and Schedules 20 and 21: Conduct of energy administration, transfer schemes etc

Section 160 to 164: Restrictions

Section 160: Restrictions on winding-up orders

Section 161: Restrictions on voluntary winding-up

Section 162: Restrictions on making of ordinary administration orders

Section 163: Restrictions on administrator appointments by creditors etc.

Section 164: Restrictions on enforcement of security

Section 165: Grants and loans

Section 166: Indemnities

Section 167: Guarantees where energy administration order is made

Sections 168 to 169: Licence modifications relating to energy administration

Section 168: Modifications of particular or standard conditions

Section 169: Licence conditions to secure funding of energy administration

Section 170: Modification of Chapter 3 of Part 3 under Enterprise Act 2002

Section 171: Interpretation of Chapter 3 of Part 3

# **Chapter 4: Further Provisions about Regulation**

Section 172: Annual report on security of energy supplies

Section 173: Appeals to the Competition Commission

Section 174 and Schedule 22: Procedure on appeals

Section 175: Determination of appeals

Section 176: Specialist members of Competition Commission

Section 177: Modifications of standard conditions for funding appeals and

references

Section 178: Duty to have regard to best regulatory practice

Section 179: Meaning of electricity supply

Section 180: Meaning of "high voltage line"

Section 181: Prepayment meters

Section 182: Additional inspectors

Section 183: Exclusion of confidential information from registers

Section 184: Assistance for areas with high distribution costs

Section 185: Adjustment of transmission charges

Section 186: Restrictions on disclosure of information

Section 187: Payments of sums raised by fossil fuel levy

## PART 4: MISCELLANEOUS AND SUPPLEMENTAL

Section 188: Imposition of charges

Section 189: International agreements relating to pipelines and offshore installations

Sections 190 and 191: Application of general duties to Part 3 functions etc and Supplementary provision about licence condition powers

Section 192: Service of notifications and other documents in electronic form

Section 197: Repeals

## **SCHEDULES**

Schedule 1: The Nuclear Decommissioning Authority

Schedule 2: Procedural requirements applicable to NDA's Strategy

Schedule 3: Procedural requirements applicable to NDA's annual plans

Schedule 4: Supplemental taxation provisions for exempt activities

Schedule 5: Supplementary provisions about nuclear transfer schemes

Schedule 6: Structure etc of the transferee companies

Schedule 7: Finance and accounts of transferee companies

Schedule 8: Pensions

Schedule 9: Taxation provisions relating to nuclear transfer schemes

## PART 1 – TRANSFERS TO THE NDA OR A SUBSIDIARY OF THE NDA

# PART 2 – OTHER TRANSFERS RELATING TO BNFL OR THE UKAEA ETC

## PART 3 – TRANSFERS RELATING TO RELEVANT SITE LICENSEES

# PART 4 – TRANSFER OF NUCLEAR LIABILITIES INVESTMENT PORTFOLIO

## **PART 5 – STAMP DUTY ETC**

## PART 6 - SUPPLEMENTAL PROVISIONS OF SCHEDULE 9

- Schedule 10: The Civil Nuclear Police Authority
- Schedule 11: Removal and suspension of senior officers of Constabulary
- Schedule 12: Planning and reports about Constabulary
- Schedule 13: Directions by Secretary of State about Constabulary
- Schedule 14: Minor amendments relating to Constabulary
- Schedule 15: Amendments of 1993 Act
- Schedule 16: Applications and proposals for notices under section 95
- Schedule 17: Conversion of existing transmission licences: licensing scheme
- Schedule 18: Property arrangements schemes
- Schedule 19: Consequential amendments relating to Chapter 1 of Part 3
- Schedule 20: Conduct of energy administration
- Schedule 21: Energy transfer schemes
- Schedule 22: Procedure for appeals under section 173

Application for permission to bring an appeal

Addition of persons to application

Suspension of decision

Time limit for representations and observations by GEMA

Consideration and determination of appeal by group

Timetable for determination of appeal

Matters to be considered on appeal

**Production of documents** 

**Oral hearings** 

**Written Statements** 

**Defaults in relation to evidence** 

**Procedural Rules** 

**Costs** 

The Secretary of State's power to modify time limits

Schedule 23: Repeals

# **COMMENCEMENT**

**Hansard References**