

ENERGY ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Chapter 2: Transfers Relating to Nuclear Undertakings

Section 43: Undertakings given by the Secretary of State

162. **Section 43** provides for the extinguishment of financial undertakings given by the Secretary of State in respect of matters for which the NDA will assume financial responsibility once section 21 comes into force. It is aimed primarily at the Magnox Undertaking under which the Secretary of State agreed in 1998 to make a series of payments based on the profile of expected expenditure on Magnox liabilities. The discounted value of the Undertaking at 31 March 2002 was £4.8 billion. Should the Secretary of State give other undertakings in the future, this section would also apply to those other undertakings. When the NDA assumes financial responsibility for the decommissioning and clean up of Magnox sites the Undertaking will no longer be required.
163. Subsection (3) prohibits the extinguishment of undertakings where the recipient of the sums involved is not publicly owned. In the case of the Magnox Undertaking, however, the intention would be to extinguish it as part of the financial restructuring of BNFL.