



Energy Act 2004

2004 CHAPTER 20

PART 1

THE CIVIL NUCLEAR INDUSTRY

CHAPTER 2

TRANSFERS RELATING TO NUCLEAR UNDERTAKINGS

Transfer by scheme of property etc.

39 Transfers of publicly owned assets

- (1) A nuclear transfer scheme may provide for a transfer to—
 - (a) a publicly owned company,
 - (b) the NDA, or
 - (c) a consenting person,of property, rights and liabilities falling within subsection (2) that are set out in the scheme.
- (2) The property, rights and liabilities that may be transferred are—
 - (a) securities of BNFL;
 - (b) securities of a company falling within subsection (3);
 - (c) property, rights and liabilities of BNFL or the UKAEA;
 - (d) property, rights and liabilities of a company falling within subsection (3);
 - (e) property, rights and liabilities of a wholly-owned subsidiary of BNFL, of the UKAEA or of a company falling within that subsection.
- (3) A company falls within this subsection if—
 - (a) it is a nuclear company that is publicly owned; or

Changes to legislation: Energy Act 2004, Section 39 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) it is a company designated for the purposes of this section by an order made by the Secretary of State.
- (4) The Secretary of State may designate a company for the purposes of this section only if it is a publicly owned company to which—
- (a) securities of BNFL,
 - (b) property, rights or liabilities of BNFL, or
 - (c) property, rights or liabilities of a wholly-owned subsidiary of BNFL,
- were transferred (whether in accordance with a nuclear transfer scheme or otherwise) at a time when both the company and BNFL were publicly owned.
- (5) The Secretary of State must lay a copy of every order under subsection (3) before Parliament.
- (6) Nothing in this section authorises—
- (a) a transfer of securities of BNFL, or
 - (b) a transfer of property, rights or liabilities of BNFL or of a wholly-owned subsidiary of BNFL,
- at a time when BNFL is no longer publicly owned.
- (7) Nothing in this section authorises—
- (a) a transfer of securities of a company designated for the purposes of this section, or
 - (b) a transfer of property, rights or liabilities of such a company or of a wholly-owned subsidiary of such a company,
- at a time when the company is no longer publicly owned.
- (8) Schedule 6 (which makes provision about the structure etc. of publicly owned companies to which transfers are made that are authorised by this section) has effect.
- (9) For the purposes of this section a person is a consenting person, in relation to a nuclear transfer scheme, if he has consented to the provisions of the scheme so far as they relate to him.

Commencement Information

II S. 39 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)