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**Changes to legislation:** Energy Act 2013, PART 4 is up to date with all changes known to be in force on or before 14 March 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

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## SCHEDULES

### SCHEDULE 2

#### INVESTMENT CONTRACTS

#### PART 4

#### TRANSFERS

##### *Transfers*

- 16 (1) The Secretary of State may make one or more schemes for the transfer of designated property, or designated rights or liabilities under an investment contract—
- (a) from the Secretary of State (“the transferor”) to a CFD counterparty (“the transferee”);
  - (b) from the Secretary of State (“the transferor”) to an investment contract counterparty (“the transferee”);
  - (c) from an investment contract counterparty (“the transferor”) to a CFD counterparty (“the transferee”);
  - (d) from a person who has ceased to be an investment contract counterparty (“the transferor”) to a person who is an investment contract counterparty (“the transferee”).
- (2) If a scheme provides for a CFD counterparty to be the transferee, regulations may provide for the investment contract to be treated to any extent as a CFD for the purposes of provision made by or by virtue of Chapter 2 of Part 2 of this Act.
- (3) Sub-paragraph (4) applies from the beginning of the first day on which all of the following three conditions are met, namely—
- (a) a definition of an “eligible generator” is in force by virtue of section 10(3) or the date is 1st January 2016 or later;
  - (b) a designation under section 7(1) has effect;
  - (c) provision required by section 9(1) to be made is in force.
- (4) The Secretary of State must in respect of each investment contract, within such period of time as the Secretary of State considers reasonable—
- (a) make a transfer scheme by virtue of sub-paragraph (1)(a) or (c) to ensure the transfer of all rights and liabilities under the investment contract, and
  - (b) make provision under sub-paragraph (2) for the investment contract to be treated as a CFD for the purposes of all provision made by or by virtue of Chapter 2 of Part 2 of this Act.
- (5) But sub-paragraph (4) does not apply to the extent that the Secretary of State considers it appropriate in all the circumstances of the case to disapply it.

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- (6) On the transfer date, the designated property, rights and liabilities are transferred and vest in accordance with the scheme.
  - (7) The rights and liabilities that may be transferred by a scheme include those arising under or in connection with a contract of employment.
  - (8) A certificate by the Secretary of State that anything specified in the certificate has vested in any person by virtue of a scheme is conclusive evidence for all purposes of that fact.
  - (9) In this paragraph and paragraph 17—
    - “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;
    - “property” includes interests of any description;
    - “the transfer date” means a date specified by a scheme as the date on which the scheme is to have effect.
- 17 (1) A scheme may make provision—
- (a) for anything done by or in relation to the transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the transferee;
  - (b) for references to the transferor in any agreement (whether written or not), instrument or other document relating to any property, rights or liabilities transferred by the scheme to be treated as references to the transferee;
  - (c) about the continuation of legal proceedings;
  - (d) for transferring property, rights or liabilities which could not otherwise be transferred or assigned;
  - (e) for transferring property, rights and liabilities irrespective of any requirement for consent which would otherwise apply;
  - (f) for preventing a right of pre-emption, right of reverter, right of forfeiture, right to compensation or other similar right from arising or becoming exercisable as a result of the transfer of property, rights or liabilities;
  - (g) for dispensing with any formality in relation to the transfer of property, rights or liabilities by the scheme;
  - (h) for transferring property acquired, or rights or liabilities arising, after the scheme is made but before it takes effect;
  - (i) for apportioning property, rights or liabilities;
  - (j) for creating rights, or imposing liabilities, in connection with property, rights or liabilities transferred by the scheme;
  - (k) for requiring the transferee to enter into any agreement of any kind, or for a purpose, specified in or determined in accordance with the scheme.
- (2) Sub-paragraph (1)(b) does not apply to references in primary legislation or in subordinate legislation.
- 18 A scheme may contain provision for the payment of compensation by the Secretary of State to any person whose interests are adversely affected by it.

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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. 68(4) inserted by [2023 c. 52 s. 302\(4\)](#)