



# Energy Act 2023

## 2023 CHAPTER 52

### PART 2

#### CARBON DIOXIDE CAPTURE, STORAGE ETC AND HYDROGEN PRODUCTION, TRANSPORT AND STORAGE

### CHAPTER 1

#### REVENUE SUPPORT CONTRACTS

#### *Transfer schemes*

## 86 Transfer schemes

- (1) The Secretary of State may make—
- (a) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a revenue support counterparty to a person who is a revenue support counterparty;
  - (b) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a hydrogen levy administrator to a person who is a hydrogen levy administrator;
  - (c) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be a hydrogen levy administrator to the Secretary of State;
  - (d) one or more schemes for the transfer of designated property, rights or liabilities of a person who has ceased to be an allocation body to a person who is an allocation body.
- (2) In this section—
- “transferee” means—
    - (a) in a case within [subsection \(1\)\(a\)](#), the person who is a revenue support counterparty;

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- (b) in a case within [subsection \(1\)\(b\)](#), the person who is a hydrogen levy administrator;
  - (c) in a case within [subsection \(1\)\(c\)](#), the Secretary of State;
  - (d) in a case within [subsection \(1\)\(d\)](#), the person who is an allocation body;
 

“transferor” means the person who has ceased to be a revenue support counterparty, a hydrogen levy administrator or an allocation body (as the case may be).
- (3) On the transfer date, the designated property, rights and liabilities are transferred and vest in accordance with the scheme.
- (4) The rights and liabilities that may be transferred by a scheme include those arising under or in connection with a contract of employment.
- (5) 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.
- (6) 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 that could not otherwise be transferred or assigned;
  - (e) for transferring property, rights and liabilities irrespective of any requirement for consent that 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.
- (7) Subsection [\(6\)\(b\)](#) does not apply to references in—
- (a) primary legislation, or
  - (b) an instrument made under primary legislation.
- (8) 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.
- (9) A transfer scheme may—
- (a) include incidental, supplementary or consequential provision;

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- (b) make transitory or transitional provision or savings;
- (c) make different provision for different cases or circumstances or for different purposes;
- (d) make provision subject to exceptions.

(10) In this section—

“designated”, in relation to a scheme, means specified in or determined in accordance with the scheme;

“primary legislation” means—

- (a) an Act of Parliament,
- (b) an Act of the Scottish Parliament,
- (c) an Act or Measure of Senedd Cymru, or
- (d) Northern Ireland legislation;

“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.

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**Commencement Information**

**11** S. 86 in force at 26.12.2023, see s. 334(3)(b)

## **87 Modification of transfer schemes**

- (1) The Secretary of State may modify a transfer scheme made under [section 86](#), subject to [subsection \(2\)](#).
- (2) If a transfer under the scheme has taken effect, any modification under [subsection \(1\)](#) that relates to the transfer may be made only with the agreement of the transferor or transferee affected by the modification (or, where both the transferor and transferee are affected, with the agreement of both of them).
- (3) A modification takes effect from such date as the Secretary of State may specify (which may be the date when the original scheme came into effect).
- (4) In this section “transferor” and “transferee” have the same meaning as in [section 86](#).

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**Commencement Information**

**12** S. 87 in force at 26.12.2023, see s. 334(3)(b)

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Cross Heading: Transfer schemes.