

---

**Changes to legislation:** Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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

---

## SCHEDULES

### SCHEDULE 9

#### TAXATION PROVISIONS RELATING TO NUCLEAR TRANSFER SCHEMES

#### PART 2

#### TRANSFERS RELATING TO BNFL OR THE UKAEAETC.

##### *Application of Part 2 of Schedule*

- 16 (1) This Part of this Schedule applies to a transfer if—
- (a) it is a transfer in accordance with a section 39 scheme of securities of a BNFL company or of property, rights or liabilities of a BNFL company; and
  - (b) the transferee is a publicly owned company which is not a subsidiary of the NDA.
- (2) This Part of this Schedule also applies to a transfer if it is a transfer in accordance with a section 39 scheme to a transferee falling within sub-paragraph (3) of—
- (a) property, rights or liabilities of the UKAEA;
  - (b) securities of a wholly-owned subsidiary of the UKAEA; or
  - (c) property, rights or liabilities of such a subsidiary.
- (3) The transferee falls within this sub-paragraph if it is—
- (a) a publicly owned company which is not a subsidiary of the NDA; or
  - (b) the UKAEA.
- (4) In this paragraph “BNFL company” means BNFL or a wholly-owned subsidiary of BNFL.

---

#### Commencement Information

**II** Sch. 9 para. 16 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

##### *Application of rules for reorganisations under same ownership*

- [<sup>F1</sup>17 Where Chapter 1 of Part 22 of the Corporation Tax Act 2010 (transfers of trade without a change of ownership) applies in relation to a transfer to which this Part of this Schedule applies, that Chapter has effect in relation to the transfer with the omission of section 945.]

*Changes to legislation: Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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*

### Textual Amendments

- F1** Sch. 9 para. 17 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 438(4) (with Sch. 2)

*Chargeable gains: assets to be treated as disposed without a gain or a loss*

- 18 (1) This paragraph applies for the purposes of the 1992 Act where an asset is transferred by a transfer to which this Part of this Schedule applies.
- (2) The asset shall be treated as disposed of to the transferee for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

### Commencement Information

- I2** Sch. 9 para. 18 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Chargeable gains: degrouping charges*

- 19 (1) This paragraph applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at a time when both were members of the same group of companies (“the old group”); and
  - (b) ceases by virtue of a transfer to which this Part of this Schedule applies to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) Where sub-paragraph (2) has applied to an asset, section 179 of the 1992 Act is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”) as if—
- (a) the degrouped company, and
  - (b) the company from which it acquired the asset,
- had been members of the new group at the time of acquisition.
- (4) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

### Commencement Information

- I3** Sch. 9 para. 19 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Chargeable gains: disposal of debts*

- 20 (1) This paragraph applies if—
- (a) a debt owed to any person is transferred by a transfer to which this Part of this Schedule applies; and

---

**Changes to legislation:** Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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) the transferor would (apart from this paragraph) be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

---

**Commencement Information**

**I4** Sch. 9 para. 20 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Capital allowances: transfer of plant or machinery*

- 21 (1) This paragraph applies where—
- (a) property transferred by a transfer to which this Part of this Schedule applies includes plant or machinery; and
  - (b) [F<sup>2</sup>Chapter 1 of Part 22 of the Corporation Tax Act 2010] does not apply in relation to the transfer of the plant or machinery.
- (2) For the purposes of Part 2 of the 2001 Act (capital allowances for plant and machinery), the transferee is to be treated—
- (a) as having incurred capital expenditure on the provision of the plant or machinery at the time of the transfer; and
  - (b) as having owned the plant or machinery as a result of having incurred that expenditure.
- (3) The amount of that expenditure is to be treated as being the book value of the plant or machinery.
- (4) For the purposes of the application of section 61 of that Act in relation to the transferor the disposal value of the plant or machinery is to be treated as being the book value of the plant or machinery.
- (5) The references in this paragraph to the book value of the plant or machinery are references to the amount which, in accordance with generally accepted accounting practice (within the meaning of the Tax Acts)—
- (a) was recognised as its value in the accounts of the transferor at the time of the transfer; or
  - (b) should have been so recognised at that time.
- (6) Expressions used in this paragraph and in Part 2 of the 2001 Act have the same meanings in this paragraph as in that Part.

---

**Textual Amendments**

**F2** Words in Sch. 9 para. 21(1)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 438(5) (with Sch. 2)

---

**Commencement Information**

**I5** Sch. 9 para. 21 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Changes to legislation: Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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*

*Capital allowances: transfer not to be transaction between connected persons*

- 22 For the purposes of Part 2 of the 2001 Act references in that Part to a transaction (however described) between connected persons (within the meaning of <sup>F3</sup>section 1122 of the Corporation Tax Act 2010] are not to include references to a transfer to which this Part of this Schedule applies.

**Textual Amendments**

- F3** Words in Sch. 9 para. 22 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 438(6) (with Sch. 2)

**Commencement Information**

- I6** Sch. 9 para. 22 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Continuity in relation to loan relationships*

- 23 (1) This paragraph applies if, in consequence of a transfer to which this Part of this Schedule applies, the transferee replaces a person as a party to a loan relationship.
- (2) <sup>F4</sup>Part 5 of the Corporation Tax Act 2009] is to have effect in relation to the time when the transfer takes effect and any later time as if—
- (a) the transferee had been a party to the loan relationship at the time when the transferor became a party to it and at all times since that time; and
  - (b) the loan relationship to which the transferee is a party after the time when the transfer takes effect is the same loan relationship as that to which, by virtue of paragraph (a), it is treated as having been a party before that time.
- (3) Expressions used in this paragraph and in <sup>F5</sup>Part 5 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in <sup>F5</sup>that Part].

**Textual Amendments**

- F4** Words in Sch. 9 para. 23(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 586(5)(a) (with Sch. 2 Pts. 1, 2)
- F5** Words in Sch. 9 para. 23(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 586(5)(b) (with Sch. 2 Pts. 1, 2)

**Commencement Information**

- I7** Sch. 9 para. 23 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Continuity in relation to derivative contracts*

- 24 (1) This paragraph applies if, in consequence of a transfer to which this Part of this Schedule applies, the transferee replaces a person as a party to a derivative contract.
- (2) <sup>F6</sup>Part 7 of the Corporation Tax Act 2009] is to have effect in relation to the time when the transfer takes effect and any later time as if—
- (a) the transferee had been a party to the derivative contract at the time when the transferor became a party to it and at all times since that time; and

**Changes to legislation:** Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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) the derivative contract to which the transferee is a party after the time when the transfer takes effect is the same derivative contract as that to which, by virtue of paragraph (a), it is treated as having been a party before that time.
- (3) Expressions used in this paragraph and in [F7Part 7 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in [F8that Part].

#### Textual Amendments

- F6** Words in Sch. 9 para. 24(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 586(6) (with Sch. 2 Pts. 1, 2)
- F7** Words in Sch. 9 para. 24(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 586(7)(a) (with Sch. 2 Pts. 1, 2)
- F8** Words in Sch. 9 para. 24(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 586(7)(b) (with Sch. 2 Pts. 1, 2)

#### Commencement Information

- I8** Sch. 9 para. 24 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

#### *Continuity in relation to transfer of intangible assets*

- 25 (1) Where—
- (a) property is transferred by a transfer to which this Part of this Schedule applies, and
- (b) the property transferred includes a chargeable intangible asset of the transferor,
- the transfer of that asset is to be treated for the purposes of Schedule 29 to the Finance Act 2002 as a tax neutral transfer.
- (2) Where, in the case of a transfer of property by a transfer to which this Part of this Schedule applies—
- (a) the property transferred includes an asset which is not a chargeable intangible asset of the transferor, but
- (b) that asset falls to be treated after the transfer as a chargeable intangible asset of the transferee,
- that asset shall be treated as acquired by the transferee for an amount equal to the amount of the consideration determined for the purposes of paragraph 18(2) of this Schedule.
- (3) Expressions used in this paragraph and in Schedule 29 to the Finance Act 2002 have the same meanings in this paragraph as in that Schedule.

#### Commencement Information

- I9** Sch. 9 para. 25 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

#### *Chargeable intangible assets: degrouping charges*

- 26 (1) This paragraph applies if a company (“the degrouped company”)—

*Changes to legislation: Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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*

- (a) acquired an intangible fixed asset from another company at a time when both were members of the same group of companies (“the old group”); and
  - (b) ceases by virtue of a transfer to which this Part of this Schedule applies to be a member of the old group.
- (2) Paragraph 58 of Schedule 29 to the Finance Act 2002 (c. 23) (company ceasing to be member of group) is not to treat the degrouped company as having, by virtue of the transfer, sold and immediately reacquired the asset.
- (3) Where sub-paragraph (2) has applied to an asset, paragraph 58 of Schedule 29 to the Finance Act 2002 is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”) as if—
- (a) the degrouped company, and
  - (b) the company from which it acquired the asset,
- had been members of the new group at the time of acquisition.
- (4) Expressions used in this paragraph and in paragraph 58 of Schedule 29 to the Finance Act 2002 have the same meanings in this paragraph as in that paragraph.

#### Commencement Information

**I10** Sch. 9 para. 26 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

#### *Computation of profits and losses: transfer of trade*

- 27 (1) This paragraph applies where, in consequence of a section 39 scheme—
- (a) a BNFL company ceases to carry on a trade or a part of a trade; and
  - (b) a publicly owned company that is not a subsidiary of the NDA (the “transferee company”) begins to carry on the trade or that part.
- (2) For the purpose of computing, in relation to the time when the scheme comes into force and subsequent times, the relevant trading profits or losses of the BNFL company and the transferee company—
- (a) the trade or part is to be treated as having been a separate trade at the time of its commencement and as having been carried on by the transferee company at all times since its commencement as a separate trade; and
  - (b) the trade carried on by the transferee company after the time when the section 39 scheme comes into force is to be treated as the same trade as that which it is treated, by virtue of paragraph (a), as having carried on as a separate trade before that time.
- (3) This paragraph is subject to paragraph 23.
- (4) In this paragraph—
- “BNFL company” means BNFL or a wholly-owned subsidiary of BNFL; and
  - “relevant trading profits and losses” means profits or losses [<sup>F9</sup>under Part 3 of the Corporation Tax Act 2009 in respect of the trade or part of a trade in question for periods in which the trade was carried on wholly or partly in the United Kingdom.]

---

**Changes to legislation:** Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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

---

---

### Textual Amendments

- F9** Words in [Sch. 9 para. 27\(4\)](#) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 586\(8\)](#) (with [Sch. 2 Pts. 1, 2](#))
- 

### Commencement Information

- I11** Sch. 9 para. 27 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

**Changes to legislation:**

Energy Act 2004, Part 2 is up to date with all changes known to be in force on or before 19 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.

[View outstanding changes](#)

**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\(2\)\(b\)](#)