



Electricity Act 1989

1989 CHAPTER 29

PART II

REORGANISATION OF THE INDUSTRY

Transfers to successor companies

65 Transfer of property etc. of Area Boards.

- (1) On such day as the Secretary of State may by order appoint for the purposes of this subsection and subsection (5) of section 66 below (in this Part referred to, in relation to any transfer effected by either subsection, as “the transfer date”), all property, rights and liabilities to which each Area Board is entitled or subject immediately before that date shall become by virtue of this subsection property, rights and liabilities of a company which, in relation to that Board, is nominated for the purposes of this subsection by the Secretary of State.
- (2) Subject to subsection (3) below, the Secretary of State may, after consulting the Area Board concerned, by order nominate for the purposes of subsection (1) above any company formed and registered under the ^{M1} Companies Act 1985.
- (3) On the transfer date each company so nominated must be a company limited by shares which is wholly owned by the Crown.
- (4) The Secretary of State shall not exercise any power conferred on him by this section or sections 66 to 69 below except with the consent of the Treasury.
- (5) In this Part “supply company” means a company nominated for the purposes of subsection (1) above.

Marginal Citations

M1 1985 c. 6.

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66 Transfer of property etc. of Generating Board and Electricity Council.

- (1) Before such date as the Secretary of State may direct, the Generating Board shall make a scheme for the division of all its property, rights and liabilities between three or more companies nominated by the Secretary of State for the purposes of this subsection; and of the companies so nominated—
- (a) two shall be designated as generating companies; and
 - (b) one shall be designated as the transmission company.
- (2) Before such date as the Secretary of State may direct, the Electricity Council shall make a scheme—
- (a) for the transfer to a company nominated for the purposes of this subsection by the Secretary of State; or
 - (b) for the division between two or more companies so nominated, of all its property, rights and liabilities (other than excepted rights and liabilities).
- (3) Subject to subsection (4) below, the Secretary of State may, after consulting the transferor, by order nominate for the purposes of subsection (1) or (2) above any company formed and registered under the ^{M2}Companies Act 1985.
- (4) On the transfer date each company so nominated must be—
- (a) a company limited by shares which is wholly owned by the Crown; or
 - (b) in the case of company nominated for the purposes of subsection (2) above, a company limited by guarantee of which no person other than the Treasury or the Secretary of State, or a nominee of the Treasury or the Secretary of State, is a member.
- (5) Subject to provisions of section 70 below, on the transfer date—
- (a) all property, rights and liabilities to which immediately before that date the Generating Board was entitled or subject; and
 - (b) all property, rights and liabilities to which immediately before that date the Electricity Council was entitled or subject (other than excepted rights and liabilities),
- shall become by virtue of this subsection property, rights and liabilities of the company to which they are allocated by the scheme under subsection (1) or, as the case may be, subsection (2) above.
- (6) In this section “excepted rights and liabilities” means—
- (a) any rights and liabilities with respect to corporation tax (including rights to receive any sums by way of repayment supplement and liabilities to pay any sums by way of interest or penalty);
 - (b) any rights and liabilities arising under an agreement which relates to any such rights and liabilities as are mentioned in paragraph (a) above and is specified or is of a description specified by the scheme made under subsection (2) above; and
 - (c) any rights and liabilities transferred by section 91 below.

Marginal Citations

M2 1985 c. 6.

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67 Transfer of property etc. of Scottish Boards.

- (1) Before such date as the Secretary of State may direct, each of the Scottish Boards shall, in consultation with the other, make a scheme for the transfer of all their property, rights and liabilities (other than excepted rights and liabilities) to one or more of three or more companies nominated by the Secretary of State for the purposes of this subsection; and of the companies so nominated—
 - (a) two shall be designated as the Scottish electricity companies; and
 - (b) one shall be designated as the Scottish nuclear company.
- (2) Subject to subsection (3) below, the Secretary of State may, after consultation with the Scottish Boards, by order nominate for the purposes of subsection (1) above any company formed and registered in Scotland under the Companies Act 1985.
- (3) On such day as the Secretary of State may by order appoint for the purposes of subsection (4) below (in this Part referred to, in relation to any transfer effected by that subsection, as “the transfer date”) each company so nominated must be a company limited by shares which is wholly owned by the Crown.
- (4) Subject to the provisions of section 70 below, on the transfer date all property, rights and liabilities (other than excepted rights and liabilities) to which immediately before that date the Scottish Boards were entitled or subject shall become by virtue of this subsection property, rights and liabilities of the company to which they are allocated by a scheme under subsection (1) above.
- (5) In this section “excepted rights and liabilities” means any rights and liabilities transferred by section 91 below.

68 Transfer schemes under sections 66 and 67.

- (1) This section applies to any scheme under subsection (1) or (2) of section 66 or subsection (1) of section 67 above (in this Part referred to as a “transfer scheme”); and in this section and section 69 below “the relevant subsection”, in relation to such a scheme, means that subsection.
- (2) A transfer scheme may—
 - (a) define the property, rights and liabilities to be allocated to a particular company nominated for the purposes of the relevant subsection—
 - (i) by specifying or describing the property, rights and liabilities in question;
 - (ii) by referring to all the property, rights and liabilities comprised in a specified part of the transferor’s undertaking; or
 - (iii) partly in the one way and partly in the other;
 - (b) provide that any rights or liabilities specified or described in the scheme shall be enforceable either by or against either or any, or by or against both or all, of two or more companies nominated for the purposes of the relevant subsection;
 - (c) impose on any company nominated for the purposes of the relevant subsection an obligation to enter into such written agreements with, or execute such other instruments in favour of, any other company so nominated as may be specified in the scheme; and
 - (d) make such supplemental, incidental and consequential provision as the transferor considers appropriate (including provision specifying the order in which any transfers or transactions are to be regarded as taking effect).

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- (3) An obligation imposed by a provision included in a transfer scheme by virtue of subsection (2)(c) above shall be enforceable by civil proceedings by the other company for an injunction or for interdict or for any other appropriate relief.
- (4) A transaction of any description which is effected in pursuance of such a provision as is mentioned in subsection (3) above—
 - (a) shall have effect subject to the provisions of any enactment which provides for transactions of that description to be registered in any statutory register; but
 - (b) subject to that, shall be binding on all other persons, notwithstanding that it would, apart from this subsection, have required the consent or concurrence of any other person.
- (5) Where a lease of any land is granted in pursuance of such a provision as is mentioned in subsection (3) above, any right of pre-emption or other like right affecting that land—
 - (a) shall not become exercisable by reason of the grant of the lease; but
 - (b) shall have effect as if the lessee were the same person in law as the lessor.

69 Functions of Secretary of State in relation to transfer schemes.

- (1) A transfer scheme shall not take effect unless it is approved by the Secretary of State; and the Secretary of State may modify such a scheme before approving it.
- (2) If, in relation to a transfer scheme—
 - (a) the transferor fails, before the date specified in the Secretary of State's direction under the relevant subsection, to submit the scheme for the approval of the Secretary of State; or
 - (b) the Secretary of State decides not to approve the scheme that has been submitted to him by the transferor (either with or without modifications),
 the Secretary of State may himself make the scheme.
- (3) It shall be the duty of the transferor to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise, in relation to a transfer scheme, of any power conferred on him by subsection (1) or (2) above.
- (4) The Secretary of State shall not exercise any power conferred on him by subsection (1) or (2) above except after consultation with the transferor and—
 - (a) in the case of a scheme under section 66(1) above, the Area Boards; and
 - (b) in the case of a scheme under section 67(1) above, the other Scottish Board.

70 Supplementary provisions as to transfers under sections 66 and 67.

The provisions of Schedule 10 to this Act shall apply, to the extent there mentioned, to any transfer which is effected by subsection (5) of section 66 or subsection (4) of section 67 above; and those subsections shall have effect subject to the provisions of that Schedule.

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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. 4(1)(f) and word inserted by [2023 c. 52 s. 186\(3\)\(b\)](#)
- s. 4(1)(ca) inserted by [2023 c. 52 s. 166\(2\)](#)
- s. 4(1)(da) inserted by [2023 c. 52 s. 205\(2\)\(b\)](#)
- s. 4(3H)(3I) inserted by [2023 c. 52 s. 186\(4\)](#)
- s. 4(3CA) inserted by [2023 c. 52 s. 205\(3\)](#)
- s. 4(3EA) inserted by [2023 c. 52 s. 205\(5\)](#)
- s. 6(1)(g) and word inserted by [2023 c. 52 s. 186\(7\)\(b\)](#)
- s. 6(1)(ea) inserted by [2023 c. 52 s. 205\(8\)\(b\)](#)
- s. 6(2C) inserted by [2023 c. 52 s. 186\(8\)](#)
- s. 6(2AA) inserted by [2023 c. 52 s. 205\(9\)](#)
- s. 6(6E) inserted by [2023 c. 52 s. 205\(10\)](#)
- s. 7(3GA) inserted by [2023 c. 52 s. 186\(17\)](#)
- s. 7A(11B) inserted by [2023 c. 52 s. 186\(18\)](#)
- s. 8A(1C) inserted by [2023 c. 52 s. 206\(6\)](#)
- s. 10NA inserted by [2023 c. 52 s. 207\(2\)](#)
- s. 11E(2)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(b\)\(iii\)](#)
- s. 11AA inserted by [2018 c. 14 s. 13\(3\)](#)
- s. 15(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 3(2)(b) (as substituted) by [S.I. 2019/1245 reg. 19](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 25(8A) inserted by [2023 c. 52 Sch. 14 para. 7\(3\)](#)
- s. 44A inserted by [1992 c. 43 s. 23](#)
- s. 44A(6)(b)(i) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 44B(1)(a)(iia) inserted by [2023 c. 52 Sch. 17 para. 8](#)
- s. 56C(6)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(d\)\(ii\)](#)
- Sch. 5A para. 2(1A) inserted by [2018 c. 14 s. 13\(4\)](#)
- Sch. 6A para. 9ZA and cross-heading inserted by [2023 c. 52 Sch. 14 para. 8](#)