



Electricity (Miscellaneous Provisions) Act 2003

2003 CHAPTER 9

An Act to make provision in connection with the provision of financial assistance to, or the acquisition of any securities of or any part of the undertaking or assets of, British Energy p.l.c. or any of its subsidiaries; to provide for the repeal of Part 2 of the Electricity Act 1989; to amend Schedule 12 to that Act and to make provision for undertakings to make grants under that Schedule to be disregarded for tax purposes. [8th May 2003]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Expenditure relating to British Energy p.l.c.

- (1) There may be paid out of money provided by Parliament any expenditure which the Secretary of State may, with the approval of the Treasury, incur with a view to or in connection with—
 - (a) the provision by the Secretary of State of financial assistance to a British Energy company;
 - (b) the acquisition by the Secretary of State or his nominee or by a Crown company of—
 - (i) any securities of a British Energy company; or
 - (ii) any part of the undertaking or assets of a British Energy company; or
 - (c) the carrying on of any undertaking acquired as mentioned in paragraph (b)(ii) or any undertaking using assets so acquired.
- (2) In this section—

“British Energy company” means British Energy p.l.c. or a company which either is or immediately before the passing of this Act was a

subsidiary of British Energy p.l.c. (within the meaning of the Companies Act 1985 (c. 6));

“Crown company” means a company which is wholly owned by the Crown;

“financial assistance” includes assistance by way of grant or loan, by entering into a guarantee or by any other means (whether the assistance is given in pursuance of an agreement or otherwise); and

“securities” includes shares or stock, debentures or debenture stock, bonds and other securities of a company (whether or not constituting a charge on the assets of the company).

- (3) A company is wholly owned by the Crown for the purposes of this section at any time when none of the issued shares in the company is held otherwise than—
- (a) by the Secretary of State or a nominee of his; or
 - (b) by a company which is itself wholly owned by the Crown.

2 Removal of restrictions on capacity to acquire certain securities

- (1) Sections 72 and 74 of the Electricity Act 1989 (c. 29) (which relate to the capacity of the Secretary of State and the Treasury to acquire securities of the successor companies) are repealed.

For the avoidance of doubt, the repeal of section 72(1) does not affect the capacity of the Secretary of State or the Treasury, apart from any enactment, to acquire (or to acquire rights to subscribe for) securities of any company.

- (2) The Secretary of State may by order made by statutory instrument repeal to any extent any of the other provisions of Part 2 of the Electricity Act 1989 (reorganisation of the electricity industry).
- (3) Such an order may make consequential, transitional or saving provision (including provision modifying the Electricity Act 1989 or any other Act).
- (4) Such an order may not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

3 Amendment of Schedule 12 to the Electricity Act 1989

- (1) Schedule 12 to the Electricity Act 1989 (nuclear liabilities: financial assistance) is amended as follows.
- (2) Paragraph 4 (financial limit on grants, loans and guarantees under that Schedule) and, in paragraphs 1(1) and (2), 2(1) and 3(1), the words “Subject to paragraph 4 below” are repealed.
- (3) In paragraph 1(1) (grants by the Secretary of State)—
- (a) for “towards” there is substituted “for the purpose of meeting”; and
 - (b) after “person” there is inserted “(whether or not the same person as the person to whom the grant is made)”.
- (4) In paragraph 2(1) (loans by the Secretary of State) for “towards” there is substituted “for the purpose of meeting”.

4 Undertakings to make grants under Schedule 12 to be disregarded for tax purposes

- (1) Where—
 - (a) the Secretary of State undertakes to make a grant under paragraph 1(1) of Schedule 12 to the Electricity Act 1989 (c. 29) in respect of qualifying expenditure incurred or to be incurred by any company, and
 - (b) in accordance with generally accepted accounting practice the company—
 - (i) recognises the value of the undertaking in its balance sheet, and
 - (ii) recognises a corresponding credit in its profit and loss account,no amount shall be brought into account in respect of that credit in computing the profits of the company for tax purposes.
- (2) This does not affect the amount (if any) to be brought into account in computing the profits of the company for tax purposes as a result of any subsequent adjustment of—
 - (a) the amount or estimated amount of the qualifying expenditure to which the undertaking relates, or
 - (b) the value of the undertaking.
- (3) This section does not apply if the undertaking is given after 31st March 2008 or such later date, not later than 31st March 2011, as may be specified by the Treasury by order made by statutory instrument.
No such order shall be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.
- (4) In this section—

“qualifying expenditure” has the same meaning as in Schedule 12 to the Electricity Act 1989; and

“for tax purposes” means for the purposes of corporation tax.

5 Short title and extent

- (1) This Act may be cited as the Electricity (Miscellaneous Provisions) Act 2003.
- (2) This Act does not extend to Northern Ireland.