



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 1

#### NUCLEAR DECOMMISSIONING

##### *Financial provisions*

## 28 Taxation of NDA activities chargeable under <sup>[F1]</sup>miscellaneous provisions]

- (1) For the purposes of the Corporation Tax Acts so much of any activity of the NDA as—
- (a) is an activity the profits and gains from which would (apart from this section) be chargeable to tax <sup>[F2]</sup>under or by virtue of any provision to which <sup>[F3]</sup>section 1173 of the Corporation Tax Act 2010] (miscellaneous charges) applies], and
  - (b) is not excluded from the operation of this section by subsection (2),
- shall be treated as an activity carried on by it as part of a trade in respect of which it is within the charge to tax under <sup>[F4]</sup>Chapter 2 of Part 3 of the Corporation Tax Act 2009].
- (2) Any activity is excluded from the operation of this section if—
- (a) it is carried on by the NDA otherwise than in connection with something mentioned in section 3(1)(a), (d) or (e) of this Act; and
  - (b) the profits and gains from it would, in the NDA's case, be chargeable to tax <sup>[F5]</sup>under or by virtue of a provision to which <sup>[F6]</sup>section 1173 of the Corporation Tax Act 2010] applies, other than section 979 of the Corporation Tax Act 2009 (income not otherwise charged).]
- (3) All activities treated under this section as carried on by the NDA as part of a trade—
- (a) shall be treated as carried on as part of the same trade; and

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**Changes to legislation:** Energy Act 2004, Section 28 is up to date with all changes known to be in force on or before 11 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

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- (b) may be treated as carried on as part of another trade carried on by the NDA.
- (4) Subsection (3) is subject to any other provision made by or under the Corporation Tax Acts that requires an activity to be treated as carried on as part of a separate trade (with or without any other activity).
- (5) This section is to be construed as one with the Corporation Tax Acts.

#### Textual Amendments

- F1** Words in s. 28 heading 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. 584(4)** (with Sch. 2 Pts. 1, 2)
- F2** Words in s. 28(1)(a) 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. 584(2)(a)** (with Sch. 2 Pts. 1, 2)
- F3** Words in s. 28(1)(a) 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. 435(2)** (with Sch. 2)
- F4** Words in s. 28(1) 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. 584(2)(b)** (with Sch. 2 Pts. 1, 2)
- F5** Words in s. 28(2)(b) 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. 584(3)** (with Sch. 2 Pts. 1, 2)
- F6** Words in s. 28(2)(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. 435(3)** (with Sch. 2)

#### Commencement Information

- I1** S. 28 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), **Sch. 1**

**Changes to legislation:**

Energy Act 2004, Section 28 is up to date with all changes known to be in force on or before 11 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.

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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. 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\(2\)\(b\)](#)