



# Energy Act 2004

## 2004 CHAPTER 20

### PART 1

#### THE CIVIL NUCLEAR INDUSTRY

### CHAPTER 2

#### TRANSFERS RELATING TO NUCLEAR UNDERTAKINGS

*Transfer by scheme of property etc.*

#### **41 Recovery of property from private ownership**

- (1) This section applies in the case of a nuclear company (“the transferred company”) all the shares in which were transferred for the purposes of a management contract to the contractor or to a subsidiary of the contractor where—
  - (a) the contractor is in breach of that contract; or
  - (b) that contract has come to an end, whether by the expiry of the period for which it was in force or otherwise.
- (2) A nuclear transfer scheme may provide for the transfer to—
  - (a) a publicly owned company,
  - (b) the NDA, or
  - (c) a consenting contractor,of the property, rights and liabilities falling within subsection (3) that are set out in the scheme.
- (3) The property, rights and liabilities that may be transferred are—
  - (a) securities of the transferred company (whether transferred as mentioned in subsection (1) or issued afterwards);
  - (b) property, rights and liabilities to which the transferred company was entitled or subject immediately before the transfer so mentioned;

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*Changes to legislation: Energy Act 2004, Section 41 is up to date with all changes known to be in force on or before 21 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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- (c) property, rights and liabilities transferred for the purposes of the management contract, to the contractor, to a subsidiary of the contractor or to the transferred company or a wholly-owned subsidiary of the transferred company;
  - (d) property, rights and liabilities to which the transferred company or a wholly-owned subsidiary of the transferred company first became entitled or subject while that contract was in force.
- (4) Subsection (3) does not apply to property, rights or liabilities to the extent that they have been excluded from that subsection by—
- (a) provision contained in an agreement between the NDA and the person entitled to or subject to them; or
  - (b) provision contained in a nuclear transfer scheme by virtue of which the property, rights and liabilities or the shares mentioned in subsection (1) were vested in any person.
- (5) A transfer is authorised by this section notwithstanding that what is transferred has ceased, before the transfer, to be the property or a right or liability—
- (a) of a person to whom anything was transferred for the purposes of the management contract mentioned in subsection (1);
  - (b) of the transferred company or of a wholly-owned subsidiary of that company; or
  - (c) in the case of securities issued after the transfer mentioned in that subsection, of the person to whom they were issued.
- (6) Nothing in this section authorises the transfer of property, rights or liabilities from a company at a time when it is publicly owned.
- (7) For the purposes of this section a person is a consenting contractor, in relation to a nuclear transfer scheme, if—
- (a) he is a contractor under a management contract other than the one that has been broken or come to an end; and
  - (b) he has consented to the provisions of the scheme so far as they relate to him.
- (8) In this section—
- “contractor”, in relation to a management contract, means a party to the contract who is not the NDA;
- “management contract” means a contract between the NDA and another person under which the other person is required to do or secure anything that the NDA is required to secure for the purpose of discharging its responsibilities; and
- “transferred”, in relation to shares, property, rights or liabilities, means transferred in accordance with a nuclear transfer scheme.

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**Commencement Information**

**II** S. 41 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

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