



Nuclear Energy (Financing) Act 2022

2022 CHAPTER 15

An Act to make provision for the implementation of a regulated asset base model for nuclear energy generation projects; for revenue collection for the purposes of that model; for a special administration regime for licensees subject to that model; and about the circumstances in which bodies corporate are not associated with site operators for the purposes of programmes relating to funding the decommissioning of nuclear sites. [31st March 2022]

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:—

PART 1

NUCLEAR ENERGY GENERATION PROJECTS: REGULATED ASSET BASE MODEL

Introductory

1 Key definitions for [Part 1](#)

- (1) This section applies for the purposes of this Part.
- (2) “Nuclear company” means a company that holds an electricity generation licence in respect of a nuclear energy generation project.
- (3) References to a “designated” nuclear company are to a nuclear company in relation to which a designation under [section 2\(1\)](#) has effect.
- (4) A nuclear company is a “relevant licensee nuclear company” if—
 - (a) the company's electricity generation licence contains modifications made under [section 6\(1\)](#), and
 - (b) the company is a party to a revenue collection contract.

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- (5) “Electricity generation licence” means a licence under section 6(1)(a) of the Electricity Act 1989.

Designation of nuclear company

2 Designation of nuclear company

- (1) The Secretary of State may by notice given to a nuclear company designate the company in relation to a nuclear energy generation project in respect of which the company holds an electricity generation licence (“the nuclear project”).
- (2) The Secretary of State may designate a nuclear company under [subsection \(1\)](#) only if the designation criteria are met in relation to the company.
- (3) The designation criteria are that—
 - (a) the Secretary of State is of the opinion that the development of the nuclear project is sufficiently advanced to justify the designation of the nuclear company in relation to the project, and
 - (b) the Secretary of State is of the opinion that designating the nuclear company in relation to the project is likely to result in value for money.
- (4) In this Part, “designation notice” means a notice under [subsection \(1\)](#).

3 Designation: procedure

- (1) The Secretary of State must publish a statement setting out—
 - (a) the procedure that the Secretary of State expects to follow in determining whether to exercise the power under [section 2\(1\)](#), and
 - (b) how the Secretary of State expects to determine whether the designation criteria mentioned in [section 2\(3\)](#) are met.
- (2) Before designating a nuclear company under [section 2\(1\)](#), the Secretary of State must—
 - (a) prepare draft reasons for the designation, and
 - (b) consult the persons listed in [subsection \(3\)](#) (including on the draft reasons).
- (3) Those persons are—
 - (a) the nuclear company that the Secretary of State proposes to designate;
 - (b) the Authority;
 - (c) the Office for Nuclear Regulation;
 - (d) where any part of the site for the nuclear project is in England, the Environment Agency;
 - (e) where any part of the site for the nuclear project is in Wales, the Welsh Ministers and Natural Resources Wales;
 - (f) where any part of the site for the nuclear project is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency;
 - (g) such other persons as the Secretary of State considers appropriate.
- (4) A duty imposed by [subsection \(1\)](#) or [\(2\)](#) may be satisfied by things done before the passing of this Act (as well as by things done after that time).

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- (5) A designation notice must include—
 - (a) a description of the nuclear project,
 - (b) the Secretary of State’s reasons for the designation (amended as appropriate in light of consultation under [subsection \(2\)\(b\)](#)),
 - (c) details of any conditions imposed by the Secretary of State in relation to the designation and of the consequences of a failure to comply with any such condition, and
 - (d) the date of the notice.
- (6) The Secretary of State must—
 - (a) publish a designation notice, and
 - (b) in addition to giving the designation notice to the nuclear company being designated, give a copy of it to the other persons consulted under [subsection \(2\)\(b\)](#).

4 Expiry of designation

- (1) The designation of a nuclear company under [section 2\(1\)](#) ceases to have effect—
 - (a) on the expiry date, or
 - (b) if the company enters into a revenue collection contract with a revenue collection counterparty before the expiry date, at the end of the day on which the revenue collection contract is entered into,unless it ceases to have effect sooner in accordance with [section 5\(1\)](#) or [\(3\)](#).
- (2) “The expiry date”, in relation to the designation of a particular nuclear company, is—
 - (a) the end of the period of 5 years beginning with the date of the designation notice in question, or
 - (b) where one or more notices under [subsection \(3\)](#) have been given to the company, the end of the day specified in the last such notice.
- (3) The Secretary of State may, before the expiry date that for the time being applies in relation to a designated nuclear company, give the company a notice providing that the new expiry date for the company’s designation is a day falling—
 - (a) after that date, but
 - (b) not more than 5 years from the date on which the notice is given to the company.
- (4) Before giving a notice under [subsection \(3\)](#), the Secretary of State must consult—
 - (a) the designated nuclear company,
 - (b) the Authority,
 - (c) the Office for Nuclear Regulation,
 - (d) where any part of the site for the nuclear project is in England, the Environment Agency,
 - (e) where any part of the site for the nuclear project is in Wales, the Welsh Ministers and Natural Resources Wales,
 - (f) where any part of the site for the nuclear project is in Scotland, the Scottish Ministers and the Scottish Environment Protection Agency, and
 - (g) such other persons as the Secretary of State considers appropriate.

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- (5) Where the designation of a nuclear company ceases to have effect in accordance with [subsection \(1\)](#), the Secretary of State must publish details of that fact.

5 Revocation or lapse of designation

- (1) The Secretary of State may by notice given to a designated nuclear company revoke the company's designation under [section 2\(1\)](#) if—
 - (a) the company ceases to hold an electricity generation licence in respect of the nuclear energy generation project described in the designation notice, or
 - (b) either of the designation criteria mentioned in [section 2\(3\)](#) ceases to be met in relation to the company.
- (2) [Section 3\(2\)](#), [\(5\)\(a\)](#), [\(b\)](#) and [\(d\)](#) and [\(6\)](#) applies (with necessary modifications) in relation to the revocation under [subsection \(1\)](#) of a nuclear company's designation under [section 2\(1\)](#) as it applies in relation to the designation of a nuclear company under [section 2\(1\)](#).
- (3) The designation of a nuclear company under [section 2\(1\)](#) ceases to have effect if—
 - (a) by virtue of [section 3\(5\)\(c\)](#), the designation notice specifies that failure to comply with a particular condition to which the designation is subject will result in the lapse of the designation, and
 - (b) the Secretary of State gives the nuclear company a notice under this subsection stating that the company has failed to comply with that condition.
- (4) Where the Secretary of State gives a notice to a nuclear company under [subsection \(1\)](#) or [\(3\)](#), the designation of the company ceases to have effect at the end of the day on which the notice is given to the company.
- (5) The Secretary of State must publish a notice given to a nuclear company under [subsection \(3\)](#).

Licence modifications

6 Licence modifications: designated nuclear companies

- (1) The Secretary of State may modify—
 - (a) a condition of a nuclear company's electricity generation licence;
 - (b) a term of a nuclear company's electricity generation licence.
- (2) The Secretary of State may exercise the power under [subsection \(1\)](#) only for the purpose of facilitating investment in the design, construction, commissioning and operation of nuclear energy generation projects.
- (3) The power under [subsection \(1\)](#) may be exercised in relation to a nuclear company only at a time when a designation under [section 2\(1\)](#) has effect in relation to the company.
- (4) When exercising the power under [subsection \(1\)](#), the Secretary of State must have regard to—
 - (a) the duties of the Secretary of State under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets);
 - (b) the interests of existing and future consumers of electricity, including their interests in relation to the cost and security of supply of electricity;

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- (c) costs, expenditure or liabilities of any description that the nuclear company may reasonably be expected to incur in carrying out its activities;
 - (d) the need to secure that the nuclear company is able to finance its activities;
 - (e) the need to secure that the nuclear company has appropriate incentives in relation to the carrying out of its activities;
 - (f) such other matters as the Secretary of State considers appropriate.
- (5) Modifications made under [subsection \(1\)\(a\)](#) may include, for example—
- (a) provision about the revenue that the nuclear company may receive in respect of its activities (the company’s “allowed revenue”);
 - (b) provision about how the nuclear company’s allowed revenue is to be calculated;
 - (c) provision about the amounts that the nuclear company is entitled to receive, or is required to pay, under any revenue collection contract to which it is a party;
 - (d) provision about activities that the nuclear company must, may or may not carry on;
 - (e) provision about the management of the nuclear company’s activities, including the manner in which they are carried out;
 - (f) provision conferring functions on the Authority, including provision enabling or requiring the nuclear company to refer for determination, decision or approval by the Authority matters specified, or of a description specified, in the licence;
 - (g) provision enabling the nuclear company to refer to the CMA a decision of the Authority falling within [section 10\(3\)](#) (decisions relating to allowed revenue);
 - (h) provision for the amendment of the licence for the purpose of implementing a determination or decision of the Authority or the CMA;
 - (i) provision requiring the nuclear company to comply with any direction or instruction, or to have regard to any guidance, given by the Authority in relation to matters specified, or of a description specified, in the licence;
 - (j) provision requiring the nuclear company to co-operate with the Authority and to provide such information and assistance to the Authority as the Authority may require for the purposes of carrying out any of its functions;
 - (k) provision about the payment by the nuclear company, to the Authority or to the CMA, of such amounts as may be determined by or in accordance with the licence;
 - (l) provision about relevant licensee nuclear company administration orders (as defined in [section 31\(1\)](#)), including provision about the raising of funds for the purpose of meeting expenses arising by virtue of such an order;
 - (m) provision about the disclosure or publication of information by the nuclear company.
- (6) Modifications made under [subsection \(1\)\(b\)](#) may include, for example, provision relating to the circumstances in which the nuclear company’s electricity generation licence may be revoked.
- (7) The Secretary of State may modify—
- (a) the standard conditions incorporated in licences under section 6(1)(a) to (d) of the Electricity Act 1989 by virtue of section 8A of that Act;
 - (b) a document maintained in accordance with the conditions of licences under section 6(1)(a) to (d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.