

# ENERGY ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Nuclear Regulation**

#### **Chapter 5: Supplementary**

#### **Supplementary**

#### *Section 115: Transfer of staff etc*

494. This section introduces Schedule 11 which makes provision for the Secretary of State to make schemes transferring staff and property from the Health and Safety Executive to the ONR and property from the Secretary of State to the ONR.
495. **Part 2** of Schedule 11 provides the Secretary of State with the power to make “staff transfer schemes”. That is to say schemes to transfer staff into the ONR who are employees of the Health and Safety Executive and have been assigned to work in the interim ONR (see *paragraph 3(2)* of Schedule 11). Staff transfer schemes may include any provisions that have the same or similar effect as the *Transfer of Undertakings (Protection of Employment) Regulations 2006*. The transfer may include the transfer of employee’s records from the Health and Safety Executive to the ONR, this is included in the broad power to create a transfer under *paragraph 4(1)* of Schedule 11.
496. **Part 3** of Schedule 11 provides the Secretary of State with the power to make schemes transferring qualifying property, rights and liabilities from the Health and Safety Executive or the Secretary of State to the ONR. All transfers of this type will be associated with the functions that the ONR will carry out in future. The property transfer scheme may include provision in respect of the continuity of legal proceedings, to apportion rights and liabilities and to transfer property rights or liabilities that could not otherwise be transferred or assigned (see *paragraph 10(1)(d)* of Schedule 11). No provision can be made in such a scheme in connection with rights or liabilities arising under or in connection with contracts of employment (see *paragraph 9(2)* of Schedule 11).
497. **Part 4** of Schedule 11 requires that the Secretary of State must consult those likely to be affected by a staff or property transfer, and where consultation has already taken place prior to such a transfer, he or she must have regard to the results of that consultation (see *paragraph 12* of Schedule 11). This consultation may be carried out by a person other than the Secretary of State. This allows the interim ONR to engage in consultation on these key issues prior to Royal Assent. The Secretary of State also has the power to modify transfer schemes before they come into force, as long as appropriate consultation can be shown to have taken place. Modifications can be made to such schemes after they have come into force but only with the agreement of the persons affected by those modifications (section 153(3)).