

ENERGY ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Final

Section 152: Interpretation of Act

647. This section defines terms used throughout the Act.

Section 153: Transfer schemes

648. This section makes provision in respect of powers in the Act to make transfer schemes. Transfer schemes are used to transfer property, rights and liabilities from one person to another in an efficient and coordinated manner. The Act contains several transfer scheme powers: Schedule 1 concerns transfers from one CFD counterparty to another, [paragraph 16](#) of Schedule 2 concerns transfers relating to investment contracts, Schedule 3 concerns the transfer of EMR functions from the national system operator to a different delivery body, Schedule 11 concerns transfers to the Office for Nuclear Regulation and Schedule 13 concerns transfers relating to the Oil and Pipelines Agency.

649. *Subsections (2) to (4)* enable the Secretary of State to modify transfer schemes. Modifications made after a transfer scheme has taken effect may only be made by agreement with those affected by the modification. Modifications come into effect on a date decided by the Secretary of State. That date may be the date on which the original transfer scheme took effect.

650. *Subsection (5)* sets out the full scope of transfer scheme powers.

Section 154: Financial provisions

651. This section makes provision about expenditure, or increase in expenditure, as a result of the Act. *Subsection (2)* is a spending authorisation and contains specific examples of where the Secretary of State may incur expenditure:

- by setting up a CFD counterparty;
- by making payments or providing financial assistance (grants, loans, guarantees, indemnities, etc) to a CFD counterparty;
- in obtaining advice and assistance in respect of CFD and capacity market arrangements;
- by making payments or providing financial assistance to a capacity market settlement body;
- by making payments or providing financial assistance to the national system operator, a person or body on whom a function is conferred by section 35 or an alternative delivery body in connection with EMR functions (see section 46) i.e. for the CFD or capacity market regimes or for an electricity demand reduction regime.

652. *Subsection (3)* allows the Secretary of State to make payments and financial assistance subject to conditions, including repayment conditions.

Section 155: Extent

653. This section sets out the territorial extent of the provisions in the Act. Most provisions in the Act extend to England and Wales, and Scotland (see *subsection (1)*).
654. *Subsection (2)* provides that Part 1 (decarbonisation), Chapters 1, 2, 4, and 8 of Part 2 (electricity market reform), section 56 (transition to certificate purchase scheme), section 63 (exemption from liability in damages), much of Part 3 (nuclear regulation) and Part 7 (final provisions) also extend to Northern Ireland.
655. *Subsection (3)* provides that section 55(4) (which enables powers relating to closure of support under the renewables obligation in Northern Ireland to have effect there) extends only to Northern Ireland. *Subsection (4)* states that sections 145 (fuel poverty) and 150 (smoke and carbon monoxide alarms) extend to England and Wales only. *Subsection (5)* provides that section 149 (fees in respect of decommissioning and clean-up of nuclear sites) extends only to England and Wales and to Northern Ireland.
656. *Subsection (7)* states that the minor and consequential amendments covered in Schedule 12 will have the same extent as the provisions they amend except for four exceptions that are listed in *paragraphs (a) to (d)* of that subsection.

Section 156: Commencement

657. This section sets out the commencement dates for the provisions in the Act. *Subsection (1)* sets out the default position, which is that provisions are to come into force on a day appointed by Secretary of State in a commencement order. Where the default position applies the Secretary of State may appoint different days for different purposes and make transitional provisions and savings (see *subsection (4)*). But *subsections (2) and (3)* set out exceptions from the default position.
658. *Subsection (2)* provides that the following provisions will come into force two months after the Act receives Royal Assent:
- Chapter 5 of Part 2 (conflicts of interest and contingency arrangements);
 - Chapter 6 of Part 2 (access to markets);
 - section 56 (transition to certificate purchase scheme);
 - Chapter 8 of Part 2 (emissions performance standard);
 - Part 5 (strategy and policy statement), other than section 138(1), (4) and (5) (consequential provision);
 - sections 139 to 142 (domestic tariffs: modifications of electricity supply licences);
 - section 143 (powers to alter activities requiring licences: activities related to supply contracts);
 - section 144 (consumer redress orders);
 - section 145 (fuel poverty);
 - section 146 (feed-in tariffs: increase in maximum capacity of plant);
 - section 147 (offshore transmission systems);
 - section 149 (fees in respect of decommissioning and clean-up of nuclear sites).
659. *Subsection (3)* provides that the following provisions come into force on the day the Act receives Royal Assent:

*These notes refer to the Energy Act 2013 (c.32)
which received Royal Assent on 18 December 2013*

- Part 1 (decarbonisation);
- Chapter 1 of Part 2 (general considerations);
- Chapter 2 of Part 2 (contracts for difference);
- Chapter 3 of Part 2 (capacity market);
- Chapter 4 of Part 2 (investment contracts);
- section 55 (closure of support under the renewables obligation);
- Chapter 9 of Part 2 (miscellaneous);
- section 113 (subordinate legislation under Part 3);
- section 114(1) (power to make transitional provisions in relation to Part 3);
- section 115 (transfer of staff, etc, for the purposes of Part 3);
- section 116(2) (power to make consequential amendments in relation to Part 3);
- section 118 (review of Part 3);
- section 151 (review of certain provisions of Part 6);
- Part 7 (final).

Section 157: Short title

660. This section confirms the short title of the Act.