

Changes to legislation: Electricity Act 1989, Cross Heading: Terms of a property scheme is up to date with all changes known to be in force on or before 21 May 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

F¹ SCHEDULES

[^{F1}SCHEDULE 2A

PROPERTY SCHEMES

Textual Amendments

F1 Sch. 2A inserted (20.5.2009) by Energy Act 2008 (c. 32), ss. 44(4), 110(2), Sch. 2; S.I. 2009/1270, art. 2

Terms of a property scheme

- 14 (1) Where the Authority is required to make a property scheme, the terms of the scheme must be such as the successful bidder and the asset owner may agree or, if they fail to agree, as the Authority may determine.

This is subject to sub-paragraphs (2) to (9).

- (2) A property scheme must not provide for any provision to come into operation before the end of the period of 21 days beginning with the day on which the scheme is made.
- (3) In determining the terms of a scheme under sub-paragraph (1), the Authority must, in particular, determine whether the scheme should include provision for compensation to be paid—
- (a) by the successful bidder to the asset owner, or
 - (b) by the asset owner to the successful bidder,
- and, if so, what that provision should be.
- (4) The Authority may not include in a property scheme provision which would adversely affect a third party unless it determines that it is necessary or expedient for [^{F2}construction, commissioning or operational purposes] for the provision to be made.
- (5) Where the Authority includes in a property scheme provision which would adversely affect a third party, the Authority must determine whether the scheme should include provision for compensation and, if so, what that provision should be.
- (6) The Authority may include in a property scheme provision for payments to be made by the successful bidder or the asset owner (or both) in respect of costs incurred in connection with the scheme (including the application for the scheme) by—
- (a) the Authority,
 - [a delivery body,
- ^{F3}(aa)
- (ab) a contract counterparty,]
 - (b) the successful bidder,
 - (c) the asset owner, or
 - (d) a third party affected by a provision of the property scheme.

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- (7) For the purposes of making a determination under sub-paragraph (6), the Authority may have regard to the conduct of the parties mentioned in sub-paragraph (6)(a) to (d).
- (8) Any sums received by the Authority under sub-paragraph (6) are to be paid into the Consolidated Fund.
- (9) For the purposes of this paragraph, a provision of a property scheme adversely affects a third party if that party—
- (a) is affected by the provision (see paragraph 38(2)), and
 - (b) does not consent to the making of the provision by means of the scheme.

Textual Amendments

- F2** Words in [Sch. 2A para. 14\(4\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(i\)](#), [Sch. 15 para. 16\(a\)](#)
- F3** [Sch. 2A para. 14\(6\)\(aa\)\(ab\)](#) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(i\)](#), [Sch. 15 para. 16\(b\)](#)

- 15 (1) A determination under paragraph 14, so far as relating to any financial matter, must be made on the basis of what is just in all the circumstances of the case.
- (2) A determination under paragraph 14, so far as relating to any other matter, must be made on the basis of what appears to the Authority to be appropriate in all the circumstances of the case having regard, in particular, to what is necessary or expedient for [^{F4}construction, commissioning or operational purposes].]

Textual Amendments

- F4** Words in [Sch. 2A para. 15\(2\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(i\)](#), [Sch. 15 para. 17](#)

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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. 4(1)(f) and word inserted by [2023 c. 52 s. 186\(3\)\(b\)](#)
- s. 4(1)(ca) inserted by [2023 c. 52 s. 166\(2\)](#)
- s. 4(1)(da) inserted by [2023 c. 52 s. 205\(2\)\(b\)](#)
- s. 4(3H)(3I) inserted by [2023 c. 52 s. 186\(4\)](#)
- s. 4(3CA) inserted by [2023 c. 52 s. 205\(3\)](#)
- s. 4(3EA) inserted by [2023 c. 52 s. 205\(5\)](#)
- s. 6(1)(g) and word inserted by [2023 c. 52 s. 186\(7\)\(b\)](#)
- s. 6(1)(ea) inserted by [2023 c. 52 s. 205\(8\)\(b\)](#)
- s. 6(2C) inserted by [2023 c. 52 s. 186\(8\)](#)
- s. 6(2AA) inserted by [2023 c. 52 s. 205\(9\)](#)
- s. 6(6E) inserted by [2023 c. 52 s. 205\(10\)](#)
- s. 7(3GA) inserted by [2023 c. 52 s. 186\(17\)](#)
- s. 7A(11B) inserted by [2023 c. 52 s. 186\(18\)](#)
- s. 8A(1C) inserted by [2023 c. 52 s. 206\(6\)](#)
- s. 10NA inserted by [2023 c. 52 s. 207\(2\)](#)
- s. 11E(2)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(b\)\(iii\)](#)
- s. 15(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 3(2)(b) (as substituted) by [S.I. 2019/1245 reg. 19](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 25(8A) inserted by [2023 c. 52 Sch. 14 para. 7\(3\)](#)
- s. 44A inserted by [1992 c. 43 s. 23](#)
- s. 44A(6)(b)(i) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 44B(1)(a)(iia) inserted by [2023 c. 52 Sch. 17 para. 8](#)
- s. 56C(6)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(d\)\(ii\)](#)
- Sch. 6A para. 9ZA and cross-heading inserted by [2023 c. 52 Sch. 14 para. 8](#)