



Coal Industry Act 1994

1994 CHAPTER 21

PART I

RE-ORGANISATION OF COAL INDUSTRY

The Coal Authority

1 Establishment of the Coal Authority.

- (1) There shall be a body corporate to be known as the Coal Authority (in this Act referred to as “the Authority”) for the purpose of—
 - (a) holding, managing and disposing of interests and rights in or in relation to the unworked coal and other property which is transferred to or otherwise acquired by it by or under this Act;
 - (b) carrying out functions with respect to the licensing of coal-mining operations;
 - (c) carrying out functions with respect to coal-mining subsidence and in connection with other matters incidental to the carrying on of any opencast or other coal-mining operations;
 - (d) facilitating the establishment and maintenance of arrangements for the information to which persons are to be entitled under this Act to be made available to them; and
 - (e) carrying out the other functions conferred on it by virtue of this Act.
- (2) The Authority shall consist of not less than two nor more than eight members appointed by the Secretary of State.
- (3) The Secretary of State shall designate one of the members appointed under this section as the chairman of the Authority and may, if he thinks fit, designate another such member as its deputy chairman.
- (4) In appointing a person to be a member of the Authority, the Secretary of State shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to its functions.

Status: Point in time view as at 20/06/2003.

Changes to legislation: Coal Industry Act 1994, Part I is up to date with all changes known to be in force on or before 24 September 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)

- (5) The Authority shall not be regarded—
- (a) as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown; or
 - (b) by virtue of any connection with the Crown, as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local;
- and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.
- (6) The provisions of Schedule 1 to this Act shall have effect with respect to the Authority and its finances.

2 Duties of the Authority with respect to licensing.

- (1) It shall be the duty of the Authority to carry out its functions under Part II of this Act in the manner that it considers is best calculated to secure, so far as practicable—
- (a) that an economically viable coal-mining industry in Great Britain is maintained and developed by the persons authorised by virtue of that Part to carry on coal-mining operations;
 - (b) that such persons are able to finance both the proper carrying on of the coal-mining operations that they are authorised to carry on and the discharge of liabilities arising from the carrying on of those operations; and
 - (c) that persons to whom obligations are owed in respect of subsidence damage caused at any time (whether before or after the passing of this Act) do not sustain loss in consequence of any failure by a person who is or has been a licensed operator to make such financial provision for meeting present and future liabilities as might reasonably have been required of that person.
- (2) Subject to section 4 below, it shall be the duty of the Authority, in carrying out its functions under Part II of this Act, to have regard to the desirability of securing—
- (a) that persons authorised by virtue of that Part to carry on coal-mining operations are persons who have at their disposal such experience and expertise in the carrying on of such operations as are appropriate for ensuring that any authorised operations are properly carried on; and
 - (b) that competition is promoted between the different persons carrying on, or seeking to carry on, coal-mining operations.
- (3) It shall also be the duty of the Authority, in carrying out its functions under Part II of this Act in cases where it appears that subsidence damage may be caused to any land or other property that does not consist in unworked coal or in a coal mine, to have regard—
- (a) to the extent of the damage which is likely to be caused; and
 - (b) to the character of the land or other property in question and to the uses to which it is or is likely to be put.

3 Duties of the Authority with respect to property.

- (1) It shall be the duty of the Authority, in carrying out the functions mentioned in section 1(1)(a) above, to have regard to—
- (a) the need to co-ordinate its practice in relation to relevant property dealings with the carrying out of its functions under Part II of this Act; and
 - (b) the need to secure the safety of members of the public.

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- (2) Subject to subsection (4) below, it shall be the duty of the Authority, so far as practicable, to make available for acquisition by others such of its land and other property as—
- (a) does not consist in an interest in any unworked coal or coal mine;
 - (b) is not being put to a use which justifies its retention by the Authority; and
 - (c) in the opinion of the Authority, is unlikely to be required for any such use.
- (3) For the purposes of subsection (2) above the only uses for land and other property which justify its retention by the Authority are—
- (a) use by any person for or in connection with the carrying on of any coal-mining operations; and
 - (b) use by the Authority in connection with the administration of its own activities or with the management of the land and other property which it is entitled to retain or is unable to dispose of;
- and for this purpose the management of land and other property shall include the performance of every obligation to which the Authority is subject in relation to any of that land or other property.
- (4) Subject to subsection (6) below, it shall be the duty of the Authority, where it disposes of any interests or rights in or in relation to any land or other property, to secure the best terms reasonably available for the disposal.
- (5) Subject to subsection (6) below, it shall be the duty of the Authority, in the exercise and performance of its powers and duties with respect to its land and other property, to have regard to the desirability of the exploitation, so far as that is economically viable, of coal-bed methane in Great Britain.
- (6) It shall be the duty of the Authority, in determining the terms on which it may dispose of any interest or right in or in relation to any unworked coal or coal mine to a person who requires the interest or right for purposes connected with activities to be carried on under the authority of a licence under [F1section 3 of the Petroleum Act 1998], to act in accordance with such arrangements and principles as it may, with the approval of the Secretary of State, have determined for the purposes of subsection (5) above.
- (7) It shall be the duty of the Authority, in formulating any proposals for works on or in relation to any of its land or other property which has been used for the carrying on of any coal-mining operations but is no longer to be put to such use—
- (a) to have regard to the desirability of preserving natural beauty, of conserving flora and fauna and geological or physiographical features of special interest and of protecting sites, buildings, structures and objects of architectural, historic or archaeological interest; and
 - (b) to take into account the effect of the proposals on the natural beauty of any area or on any such flora, fauna, features, sites, buildings, structures or objects.
- (8) In this section “relevant property dealings”, in relation to the Authority, means the grant of such interests and rights in or in relation to its land or other property as appear to it to be appropriate for the purpose of enabling or facilitating its use for, or in connection with, the carrying on of any coal-mining operations.

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Textual Amendments

- F1** Words in s. 3(6) substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 38(2)** (with **Sch. 3 para. 5(1)**); S.I. 1999/161, **art. 2(1)**

4 Duty of the Authority with respect to safety.

- (1) It shall be the duty of the Authority—
- (a) in conjunction with the Health and Safety Executive, to prepare and from time to time revise a document setting out such means as may, with the approval of the Health and Safety Commission, be agreed between the Authority and that Executive for securing co-operation and the exchange of information between them; and
 - (b) without prejudice to the effect or operation of any relevant statutory provisions (within the meaning of Part I of the ^{M1}Health and Safety at Work etc. Act 1974), to conduct itself in the carrying out of its functions in accordance with any agreement contained in that document.
- (2) As soon as practicable after agreement is reached for the purposes of—
- (a) the preparation of a document in accordance with subsection (1) above, or
 - (b) any revision of a document prepared in accordance with that subsection,
- the Authority shall send a copy of the document or, as the case may be, of the revised version of it to the Secretary of State, and the Secretary of State shall lay the copy before each House of Parliament.

Marginal Citations

- M1** 1974 c. 37.

5 General powers of the Authority.

- (1) Subject to subsections (6) and (7) below, the Authority shall have power to do anything which, in the opinion of the Authority, is calculated to facilitate, or is conducive or incidental to, the carrying out of its functions.
- (2) Subject to subsections (6) and (7) below, the powers of the Authority shall include power, for the purposes of or in connection with the carrying out of its functions—
- (a) to acquire land by agreement and to hold and dispose of land; and
 - (b) in exercise of rights attached to its interests in land, or of any such rights in relation to other land as are granted to it by the owner or occupier, to carry out any works on or with respect to land.
- (3) Subject to subsection (7) below, where the Authority has land which it is required under this Act to make available for acquisition by others, its powers shall include—
- (a) power, in exercise of any rights attached to its interest in the land, to develop or improve the land, or to join with others in developing or improving the land, with a view to its disposal for use or enjoyment by another; and
 - (b) power by agreement to acquire other land with a view (with or without developing or improving it) to disposing of the other land together with the land in question.

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- (4) The powers of the Authority shall include power to enter into arrangements with a person who is or has been a licensed operator to act on that person's behalf in relation to any of the following matters, that is to say—
- (a) the giving and publication of notices under or for the purposes of section 38 or 49 below or any provisions of the 1991 Act; or
 - (b) the handling of any matter arising under the 1991 Act and the performance of that person's obligations in relation to any subsidence damage.
- (5) The powers of the Authority shall include power, where it—
- (a) provides a service to anyone in the course of the exercise or performance of its powers or duties, or
 - (b) receives any application for the grant of, or any offer for, any such interest or right in or in relation to any of its land or other property as may be required by any person for the purpose of exploring for coal or of carrying on coal-mining operations,
- to make a charge for the provision of that service or, as the case may be, for considering that application or offer.
- (6) The Authority shall not have power—
- (a) for commercial purposes or with a view to itself using any coal or product of coal, to carry on any coal-mining operations consisting in—
 - (i) the winning, working or getting (with or without other minerals) of any coal,
 - (ii) the treatment of coal in the strata for the purpose of winning any product of coal, or
 - (iii) the winning, working or getting of any product of coal resulting from such treatment;
 - or
 - (b) with a view to any such operations being so carried on by the Authority or any other person, to explore for coal or, subject to subsection (4) above, to take any steps for the benefit of another for obtaining planning permission or any other authorisation required for carrying on coal-mining operations.
- (7) The Authority shall not—
- (a) acquire any land or acquire or hold shares in or other securities of any body corporate or otherwise become a member of a body corporate, or
 - (b) lend money to any person or guarantee or otherwise provide security for a loan made to any person,
- except with the agreement of the Secretary of State.
- (8) The consent of the Treasury shall be required for the giving of the Secretary of State's agreement under subsection (7) above.
- (9) Subsections (2) to (5) above shall be without prejudice to the generality of subsection (1) above.

6 Directions to the Authority by the Secretary of State.

- (1) It shall be the duty of the Authority to comply with such directions of a general character as may be given to it by the Secretary of State with respect to the carrying out of any of its functions, or to its activities generally.

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- (2) It shall be the duty of the Authority to comply with such specific directions as may be given to it by the Secretary of State with respect to—
- (a) whether or not it exercises any of its powers and the manner in which any of its powers is to be exercised;
 - (b) the manner in which any of its duties is to be performed; or
 - (c) any other conduct by the Authority in connection with the carrying out of any of its functions or with its activities generally.
- (3) Without prejudice to the generality of the preceding provisions of this section, directions under this section may be given, in relation to any information which is in the possession of or available to the Authority, requiring the Authority to do one or both of the following, that is to say—
- (a) publish it in such manner as may be described in the direction;
 - (b) furnish it, together with such explanations as he may reasonably require, to the Secretary of State.
- (4) A direction under this section shall not authorise the publication of any information if, apart from the direction, the publication of that information would be in contravention of arrangements for the time being in force for the purposes of section 59 below.
- (5) The power to give a direction under this section shall be exercisable, except in an emergency, only after consultation with the Authority.

The Corporation's exploitation rights

7 **Exploitation rights: general.**

- (1) From the passing of this Act until such date as the Secretary of State may by order made by statutory instrument appoint for the purposes of this section (“the restructuring date”), section 36 of the 1946 Act (power of the Corporation, subject to limits contained in subsection (2)(a) and (c), to grant licences by way of exception to its exclusive rights) shall have effect with the omission—
- (a) in subsection (2)(a), of the words from “with respect to which” to “150”; and
 - (b) in subsection (2)(c), of the words from “where” to “250,000 tonnes”.
- (2) On the restructuring date the Corporation shall cease to have the exclusive right, under section 1 of the 1946 Act, of searching for, boring for, working and getting coal in Great Britain.
- (3) On the restructuring date the Corporation’s interests in unworked coal and coal mines, including its interests in any coal that, notwithstanding having been worked at some time, is so attached to or incorporated in any coal mine or other land as to be, in law, a part of it, shall vest without further assurance in the Authority.
- (4) Subsection (3) above shall have effect subject to sections 8 and 9 below and to the powers conferred by virtue of section 12(1) below and, in its application to Scotland, shall have effect with the omission of the words “without further assurance”.
- (5) The Secretary of State shall not under this section appoint a date as the restructuring date unless he is satisfied that such schemes have been or are to be made under section 12 below as will ensure that the Authority is entitled or subject, from that date, to all such property, rights and liabilities as it requires for carrying out the functions which become its functions on that date.

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Subordinate Legislation Made

- P1 [S. 7](#) power exercised: 31.10.1994 appointed as the restructuring date, see [s. 68\(2\)](#) and [S.I. 1994/2553, art. 2](#)

8 Exploitation rights: territorial waters and continental shelf.

- (1) Subject to section 9 below, the interests in unworked coal and coal mines which are vested in the Corporation immediately before the restructuring date shall be deemed to include—
 - (a) the interests and rights of a freehold owner in and in relation to any such coal under the territorial sea adjacent to the United Kingdom as is coal with respect to which the Corporation has rights immediately before that date by virtue of section 1 of the ^{M2}Continental Shelf Act 1964, as read with section 2(3) of the ^{M3}Territorial Sea Act 1987; and
 - (b) the exclusive right, for the purposes of the rights of the United Kingdom mentioned in section 1(1) of that Act of 1964 and without the consent of the Secretary of State, of authorising the carrying on, in relation to the coal in any designated area, of any of the coal-mining operations to which section 25 below applies or of any operation carried on for the purpose of searching or boring for coal.
- (2) Section 7(3) above shall not vest in the Authority any interest or rights in or in relation to any coal or coal mines outside Great Britain and the territorial sea adjacent to Great Britain except those mentioned in subsection (1)(b) above.
- (3) Where on the coming into force on or after the restructuring date of any Order in Council under section 1 of the ^{M4}Territorial Sea Act 1987 any area outside the United Kingdom and the territorial sea adjacent to the United Kingdom is brought within that territorial sea, that Order in Council shall have the effect of vesting the interests and rights of a freehold owner in and in relation to coal under the seabed in that area in such person as may be specified in the Order in Council or, if no person is so specified, in the Authority.
- (4) Nothing shall be vested in any person by virtue of subsection (3) above which would by virtue of section 9 below have been excluded, had the Order in Council come into force before the restructuring date, from the interests and rights which are deemed to be vested in the Corporation immediately before that date.
- (5) In this section “designated area” means any area which is for the time being both outside the territorial sea adjacent to the United Kingdom and comprised in an area designated (whether before or after the beginning of the restructuring date) under section 1(7) of the ^{M5}Continental Shelf Act 1964.
- (6) References in this section to the interests and rights of a freehold owner shall be construed, in relation to any coal the interests or rights in or in relation to which fall to be determined according to the law of Scotland, as references to the interests and rights of a proprietor of the *dominium utile*.

Marginal Citations

- M2 [1964 c. 29.](#)
M3 [1987 c. 49.](#)

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M4 1987 c. 49.

M5 1964 c. 29.

9 Exploitation rights: oil and gas.

- (1) It is hereby declared, without prejudice to [^{F2}section 9(1) of the Petroleum Act 1998] (petroleum set free in the course of mining and other lawful operations), that the interests and rights which are vested or deemed to be vested in the Corporation immediately before the restructuring date do not include—
- (a) any interest in, or any entitlement to an interest in, any oil or gas which, in its natural condition in strata, is or becomes absorbed in or adsorbed to any coal; or
 - (b) any right, without a licence under [^{F3}section 3 of that Act of 1998], to search for, bore for or get any oil or gas which is or becomes so absorbed or adsorbed.
- (2) Accordingly, nothing in any enactment or subordinate legislation relating to interests or rights in or in relation to any coal, or in or in relation to any oil or gas, shall be taken to have prevented any such interest or entitlement as is mentioned in subsection (1)(a) above from having become by virtue of any enactment or subordinate legislation, or from continuing to be, an interest or entitlement of the Crown.
- (3) The exclusions confirmed by virtue of the preceding provisions of this section from the interests and rights which are vested or deemed to be vested in the Corporation immediately before the restructuring date shall not, in the case of any coal won, worked, treated or got in pursuance of any of those interests or rights, be taken to have, or at any time to have had, the effect of giving rise to any liability in respect of the winning, working, treatment, getting or disposal of—
- (a) any of that coal having oil or gas occluded in it at the time of its being brought from the strata to the surface or, as the case may be, of its treatment in the strata; or
 - (b) any product of that coal resulting from any such treatment.
- (4) So long as the Authority retains—
- (a) the interest of a freehold owner in any coal or coal mine vested in it by virtue of section 7(3) above, or
 - (b) in Scotland, the interest of proprietor of the *dominium utile* as respects any such coal or coal mine,
- the ownership of the coal or coal mine or, as the case may be, the possession of the interest of such a proprietor shall entitle the Authority to grant such rights in relation to that coal or coal mine as are required by any person for the purpose, under the authority of any licence which has been or may be granted to that person under section 2 of the Petroleum (Production) Act 1934 [^{F4}or section 3 of the Petroleum Act 1998], of searching for, boring for or getting any oil or gas in that coal or coal mine.
- (5) The grant under subsection (4) above to any person of any rights—
- (a) shall, in favour of that person, bind any other person who has or acquires an interest or right in or in relation to the coal or coal mine in question; but
 - (b) shall be without prejudice, in a case where there is a person other than the Authority with an interest or right in that coal or coal mine at the time of the grant, to any such person's rights as against the Authority in respect of—
 - (i) any interference by virtue of the grant with the enjoyment of his interest or right; or

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- (ii) any contravention of an undertaking given in relation to that interest or right.
- (6) In this section “oil or gas” means—
- (a) any mineral oil or any relative hydrocarbon which, in its natural state, is not a solid; or
 - (b) methane or any other natural gas.

Textual Amendments

- F2** Words in s. 9(1) substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 38(3)(a)**(with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**
- F3** Words in s. 9(1)(b) substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 38(3)(b)**(with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**
- F4** Words in s. 9(4) inserted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 38(3)(c)**(with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

10 Protection for certain interests in coal and coal mines.

- (1) This section applies to any coal or coal mine the ownership of which—
- (a) is vested in the Corporation immediately before the restructuring date; and
 - (b) has not, at any time on or after that date, become vested in a person other than the Corporation or the Authority by virtue of being conveyed or transferred to that person either—
 - (i) by the Authority or the Corporation; or
 - (ii) in accordance with a scheme under section 12 below.
- (2) No interest or right adverse to the title of the Authority or the Corporation in any coal or coal mine to which this section applies shall be capable of being acquired—
- (a) under section 15 or 17 of the ^{M6}Limitation Act 1980 (time limits on actions to recover land and extinction of titles); or
 - (b) under section 1 or 2 of the ^{M7}Prescription and Limitation (Scotland) Act 1973 (prescriptive possession on *ex facie* valid deed).
- (3) Subject to section 13(8) of the ^{M8}Gas Act 1965 (compulsory purchase for purposes of underground gas storage), where any power to acquire land compulsorily is conferred by or under any enactment (including, unless it otherwise provides, an enactment passed after this Act), that power shall not be exercisable on or after the restructuring date in respect of any coal or coal mine to which this section applies except in so far as—
- (a) the coal is coal that it is necessary to dig or carry away in the course of operations for the purposes of which the power is conferred; or
 - (b) the coal mine is one that it is necessary to use in the course of any such operations.
- (4) Subsections (2) and (3) above, in their application to England and Wales, shall not restrict the acquisition as mentioned in either of those subsections of any such liberty, privilege, easement, advantage or other right as adversely affects any coal or coal mine to which this section applies and is either annexed to any land or, without being so annexed, is acquired under any enactment.

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- (5) Subsection (3) above, in its application to Scotland, shall not restrict the acquisition, as mentioned in that subsection—
- (a) of any such servitude as adversely affects any coal or coal mine to which this section applies; or
 - (b) of any other right so affecting (but not adverse to the title in) such coal or coal mine.
- (6) For the purposes of subsection (4) above the reference to a liberty, privilege, easement, advantage or other right being annexed to any land is a reference to its appertaining to that land or any part of it, to its being demised, occupied or enjoyed with that land or any part of it or to its being reputed or known as part or parcel of the land or as appurtenant to the land or to any part of it.
- (7) The reference in subsection (1) above to the ownership of any coal or coal mine is a reference—
- (a) in relation to England and Wales, to the interest of the freehold owner of that coal or coal mine; and
 - (b) in relation to Scotland, to the interest as respects that coal or coal mine of proprietor of the *dominium utile*.

Modifications etc. (not altering text)

C1 S. 10(3) applied (28.7.1998) by 1998 c. iii, s. 1, Sch., Order 40(2).

Marginal Citations

M6 1980 c. 58.
M7 1973 c. 52.
M8 1965 c. 36.

Restructuring of the Corporation's undertaking

11 Restructuring of the Corporation's functions.

- (1) On and after the restructuring date the Corporation shall continue to exist until dissolved under section 23 below but with its functions confined to—
- (a) carrying on its undertaking for the time being, and
 - (b) managing and otherwise dealing with the interests and rights in or in relation to property which are for the time being vested in it,
- in such manner as, having regard to what is economically viable, it considers is best calculated for the purposes specified in subsection (2) below.
- (2) The purposes mentioned in subsection (1) are those of securing—
- (a) that all of the Corporation's undertaking and property is in due course transferred out of the ownership and control of the Corporation;
 - (b) that any transfers for the removal of any of that undertaking or property from the ownership or control of the public sector are on the best available terms; and
 - (c) that the Corporation's undertaking and property are put to the best available use for so long as they remain in its ownership or under its control.

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- (3) Where the Secretary of State notifies his opinion to the Corporation as to—
- (a) what is economically viable in any case,
 - (b) the activities most likely to secure that any transfer for the removal of any of the Corporation's undertaking, or any property, from the ownership or control of the public sector will be on the best available terms, or
 - (c) the best available use to which any of the Corporation's undertaking or property may be put while owned by or under the control of the Corporation,
- the Corporation shall be required for the purposes of this section to accept that opinion.
- (4) Subject to subsection (6) below, on and after the restructuring date the following powers, that is to say—
- (a) the powers conferred on the Corporation by subsection (2) of section 1 of the 1946 Act (incidental activities) and described in that subsection as functions,
 - (b) those conferred on the Corporation by subsection (3) of that section (power to enter into certain transactions), and
 - (c) a power, so far as not comprised in the powers conferred by subsection (2) or (3) of that section, to carry on any activities consisting in or connected with the working or getting of coal,
- shall be exercisable by the Corporation for the purposes of, and in connection with, the carrying out of the Corporation's functions under subsection (1) above as they were exercisable, before the restructuring date, for or in connection with the discharge of its duties under subsection (1) of that section.
- (5) The requirement for the matters secured under subsection (4) of section 1 of the 1946 Act (which specifies policy objectives for the Corporation) to be secured consistently with the proper discharge of the Corporation's duties under subsection (1) of that section shall have effect on and after the restructuring date as a requirement for those matters to be secured consistently with the carrying out of the Corporation's functions under subsection (1) above.
- (6) On and after the restructuring date the Corporation—
- (a) shall not be entitled to carry on any coal-mining operations in respect of which a licence under Part II of this Act is required except under and in accordance with such a licence;
 - (b) shall no longer have the powers conferred on it by the ^{M9}National Coal Board (Additional Powers) Act 1966 and section 9 of the ^{M10}Coal Industry Act 1977 (powers with respect to petroleum); and
 - (c) shall have no power, by virtue of the preceding provisions of this section, to carry on any business which it would not have had power to carry on apart from this Act.
- (7) It shall be the duty of the Corporation to comply with such general or specific directions with respect to the exercise of any of its powers, or otherwise with respect to the carrying on of any of its activities, as may be given to it at any time by the Secretary of State.
- (8) The consent of the Treasury shall be required for the giving of any notification for the purposes of subsection (3) above; and the power of the Secretary of State to give such a notification and his power to give directions under subsection (7) above shall each be exercisable, except in an emergency, only after consultation with the Corporation.

Status: Point in time view as at 20/06/2003.

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- (9) Subsection (1) above shall be without prejudice to any powers conferred on the Corporation by the ^{M11}British Coal and British Rail (Transfer Proposals) Act 1993.

Marginal Citations

- M9** 1966 c. 47.
M10 1977 c. 39.
M11 1993 c. 2.

12 Restructuring schemes in relation to property etc.

- (1) The Secretary of State may, at any time before the restructuring date, make a scheme providing for the creation, as from that date, in favour of—
- (a) the Corporation, or
 - (b) any person to whom any part of the Corporation’s undertaking is to be transferred on that date in accordance with a scheme under this section,
- of such interests and rights in or in relation to any of the property transferred to the Authority by section 7(3) above as he thinks appropriate for the purposes of the Corporation’s functions on and after that date or, as the case may be, for the purposes of the carrying on by that person of the part of the Corporation’s undertaking which is to be transferred to him.
- (2) The Secretary of State may from time to time make a scheme for the transfer of property, rights and liabilities from the Corporation or any of its wholly-owned subsidiaries to the Authority or to any one or more other persons who—
- (a) have entered into an agreement under section 13 below to accept the transfers; or
 - (b) otherwise appear to him to be persons in whom it is appropriate to vest the property, rights and liabilities in question;
- and the persons to whom a transfer may be made by virtue of paragraph (b) above shall include the Secretary of State himself.
- (3) The consent of the Treasury shall be required for the making of any scheme under this section (“a restructuring scheme”).
- (4) Subject to subsection (5) below, a restructuring scheme shall not, by virtue of subsection (2)(b) above, contain any provision in accordance with which any person other than—
- (a) the Secretary of State,
 - (b) the Authority,
 - (c) the Corporation or any of its wholly-owned subsidiaries, or
 - (d) a company wholly owned by the Crown,
- becomes entitled or subject to any property, rights or liabilities unless it appears to the Secretary of State that that person has consented to the provisions of the scheme so far as they relate to him.
- (5) Subsection (4) above shall not require the consent of any person to so much of any restructuring scheme as—
- (a) relates to property, rights or liabilities to which that person is already entitled or subject; and

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- (b) appears to the Secretary of State to be made for purposes that are no more than supplemental or incidental to the other provisions of the scheme.
- (6) It shall be the duty of the Secretary of State, in exercising his powers under this section to make a restructuring scheme in accordance with which any person other than—
 - (a) a person mentioned in subsection (4)(a) to (d) above, or
 - (b) a body of whom all the members are appointed by a Minister of the Crown,is to become subject to any liabilities, to have regard to the fact that it would not be appropriate for the scheme to provide for the transfer of any of those liabilities to any person except where it is reasonable to believe that that person is a person who will be able to finance their discharge.
- (7) The Secretary of State—
 - (a) shall retain and preserve a copy of every restructuring scheme made under this section; and
 - (b) at the request of any person who, in accordance with such a scheme, has become entitled to any interest or right in or in relation to any property, shall furnish that person with a list of the names and addresses of the other persons who have become entitled to interests or rights in or in relation to property in accordance with that or with any other such scheme.
- (8) Schedule 2 to this Act shall have effect with respect to restructuring schemes.

13 Agreements with respect to restructuring schemes.

- (1) The Secretary of State may enter into any such agreement with another person as he thinks fit for the purpose of accepting or imposing contractual obligations with respect to, or to anything connected with, any or all of the following matters, that is to say—
 - (a) the manner and circumstances in which his powers by virtue of section 12 above are to be exercised; and
 - (b) the property, rights or liabilities to which any proposed restructuring scheme relates.
- (2) An agreement under this section may, in particular, provide for the making of payments to the Corporation or the Secretary of State (by way of consideration or otherwise) in respect of anything created or transferred in accordance with a restructuring scheme.
- (3) An agreement under this section may also contain provision in pursuance of which the Secretary of State binds himself as to the manner and circumstances in which he will exercise his power to give directions under section 11(7) above.
- (4) The consent of the Treasury shall be required for the making of an agreement under this section.
- (5) Any sums received by the Secretary of State in pursuance of an agreement under this section shall be paid into the Consolidated Fund.

14 Duty to assist in preparation of restructuring schemes.

- (1) It shall be the duty of the Corporation and of the Authority to furnish the Secretary of State with all such information and other assistance as he may require for the purposes of, or in connection with—

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- (a) the making of any restructuring scheme or of any agreement under section 13 above; or
 - (b) the exercise of any of his powers in relation to any such scheme.
- (2) The assistance that may be required under this section in relation to the making of any scheme or agreement includes—
- (a) assistance required by the Secretary of State in connection with the exercise of any power conferred on him by section 26(6) below; and
 - (b) the taking of any step which the Corporation has power to take for the purpose of facilitating the implementation of any proposals of the Secretary of State which involve the inclusion of anything in the scheme or agreement or otherwise relate, in connection with the making of the scheme or agreement, to the Corporation's undertaking.
- (3) The obligations of the Corporation under this section shall include a duty to secure, so far as practicable, that its subsidiaries furnish all such information and assistance as the Secretary of State may require for the purposes of, or in connection with, the making of any such scheme or agreement, or the exercise of any such power, as is mentioned in subsection (1) above.
- (4) A duty under this section to furnish information or assistance, or to secure that it is furnished, shall be performed within such period after the requirement giving rise to the duty as the Secretary of State may allow.

The Corporation's successors

15 Financial structure of successor companies.

Schedule 3 to this Act (which makes provision as to the financial structure of the companies and related matters) shall have effect in relation to successor companies.

16 Target investment limit for Government holding in successor companies.

- (1) The following provisions of this section shall apply separately in relation to every successor company which is limited by shares.
- (2) As soon as he considers it expedient, and in any case not later than six months after the date when the company ceases to be wholly owned by the Crown, the Secretary of State shall by order fix a target investment limit in relation to the aggregate of the shares in the company which are for the time being held by any of the following, that is to say, the Treasury, the Secretary of State or any nominee of the Treasury or the Secretary of State (“the Government shareholding”).
- (3) The target investment limit for the Government shareholding in the company shall be expressed as a proportion of the voting rights which are exercisable in all circumstances at general meetings of that company (“the ordinary voting rights”).
- (4) The first target investment limit fixed under this section for the Government shareholding in the company shall not exceed, by more than one half of one per cent. of the ordinary voting rights, the proportion of those rights which is carried by the Government shareholding in the company at the time when the order fixing the limit is made.

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- (5) The Secretary of State may from time to time by order fix a new target investment limit for the Government shareholding in the company in place of the one previously in force under this section; but—
 - (a) any new limit must be lower than the one it replaces; and
 - (b) an order under this section may be revoked only by an order fixing a new limit.
- (6) It shall be the duty of the Treasury and of the Secretary of State so to exercise—
 - (a) their powers under paragraph 3 of Schedule 3 to this Act and any power to dispose of any shares in the company held by either of them, and
 - (b) their power to give directions to their respective nominees,as to secure that the Government shareholding in the company does not carry a proportion of the ordinary voting rights exceeding any target investment limit for the time being in force under this section.
- (7) Notwithstanding subsection (6) above but subject to subsection (8) below, the Treasury or the Secretary of State may take up, or direct any of their respective nominees to take up, any rights for the time being available to them or him, or to that nominee—
 - (a) as an existing holder of shares in or other securities of the company; or
 - (b) by reason of the rescission of any contracts of sale of any such shares or securities.
- (8) If, as a result of anything done under subsection (7) above, the proportion of the ordinary voting rights carried by the Government shareholding at any time exceeds the target investment limit, it shall be the duty of the Treasury or, as the case may be, the Secretary of State to comply with subsection (6) above as soon after that time as is reasonably practicable.
- (9) For the purposes of this section the temporary suspension of any of the ordinary voting rights shall be disregarded.
- (10) The consent of the Treasury shall be required for the exercise by the Secretary of State of any power conferred on him by this section; and the power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Financial arrangements in connection with restructuring

17 Grant-making powers.

- (1) The Secretary of State shall not—
 - (a) include provision in any restructuring scheme for the transfer to any person of a right to a grant or other payment specified in subsection (2) below; or
 - (b) make any such grant or payment at any time after such date as the Secretary of State may by order made by statutory instrument appoint for the purposes of this paragraph;but different dates may be appointed for the purposes of paragraph (b) above in relation to different grants and payments.
- (2) The grants and payments mentioned in subsection (1) above are—

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- (a) payments under section 4 of the ^{M12}Coal Industry Act 1967 or section 3 of the ^{M13}Coal Industry Act 1982 (payments providing re-imbursement of contributions to early retirement benefits etc.);
- (b) payments under section 2 of the ^{M14}National Coal Board (Finance) Act 1976 (payments towards mineworkers' pension scheme deficiency);
- (c) grants under—
 - (i) section 6 of the ^{M15}Coal Industry Act 1977 (pit closure grants for certain financial years); or
 - (ii) section 4 of the ^{M16}Coal Industry Act 1987 (grants in respect of expenditure referable to costs incurred in those financial years or in respect of other approved expenditure);
- (d) such payments under a scheme made in pursuance of section 7 of that Act of 1977 (payments to redundant workers or in respect of arrangements relating to concessionary coal) as may be made otherwise than to persons to whom the scheme applies in accordance with subsection (1) of that section;
- (e) grants under section 3 of that Act of 1987 (grants for workforce redeployment and reduction etc.);
- (f) grants under section 1 of the ^{M17}Coal Industry Act 1990 (deficiency grants).

Marginal Citations

M12 1967 c. 91.
M13 1982 c. 15.
M14 1976 c. 1.
M15 1977 c. 39.
M16 1987 c. 3.
M17 1990 c. 3.

18 Residual payments grant.

- (1) The Secretary of State may, with the approval of the Treasury, make payments by way of grant (“residual payments grant”) to—
 - (a) the Corporation, or
 - (b) any successor company which is for the time being wholly owned by the Crown,

with a view to reducing or eliminating any amount falling to be shown in any accounts of the Corporation or that company as a deficit on its cash flow for any accounting period.
- (2) The payment of residual payments grant may be made by advancing sums during any accounting period in anticipation of what it appears will be the deficit on cash flow for that period.
- (3) Residual payments grant shall not be paid to any person in respect of any deficit which appears to the Secretary of State to be attributable to any failure of the Corporation to be paid, or to apply for, any amount which could have been paid, or would have been payable, to the Corporation by way of any payment or grant mentioned in subsection (2) of section 17 above.
- (4) Where payments by way of residual payments grant have been made to the Corporation or any successor company and it appears to the Secretary of State that,

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after those payments have been taken into account in relation to the accounting period in respect of which they are made, there is a surplus on its cash flow for that accounting period or for any subsequent accounting period, an amount equal to whichever is the smaller of—

- (a) so much of the aggregate amount of payments made by way of grant under this section to the Corporation or, as the case may be, that company as has not already been repaid under this subsection, and
- (b) the amount of the surplus,

shall be paid by the Corporation or, as the case may be, that company to the Secretary of State.

- (5) Any sums falling to be paid to the Secretary of State under subsection (4) above shall bear interest at such rate as the Secretary of State may, with the consent of the Treasury, determine.
- (6) No amount shall fall to be paid to the Secretary of State under subsection (4) or (5) above in respect of any surplus on the cash flow of any successor company for any accounting period ending after the company has ceased to be wholly owned by the Crown; but a successor company which ceases to be wholly owned by the Crown shall be deemed to be required to produce accounts for the purposes of this section for the period between the end of its previous accounting period and the time when it ceases to be wholly owned by the Crown.
- (7) Any sums required by the Secretary of State for making any grant under this section shall be paid out of money provided by Parliament; and any sums received by the Secretary of State by virtue of subsections (4) and (5) above shall be paid into the Consolidated Fund.
- (8) Subject to subsection (6) above, in this section “accounting period”, in relation to the Corporation or any successor company, means any period for which the Corporation or that company is required by or under any enactment to produce accounts.

19 Concessionary coal.

- (1) The Secretary of State may, out of money provided by Parliament, make such payments to such persons as he may think fit for the purpose of securing any of the following, that is to say—
 - (a) that supplies of concessionary coal are made on and after the restructuring date to persons who would have received such supplies from the Corporation under relevant arrangements if those arrangements had not been affected by steps taken in connection with the restructuring of the coal industry;
 - (b) that provision is made for sums to be paid in lieu of concessionary coal to persons such as are mentioned in paragraph (a) above; and
 - (c) that provision is made for sums to be so paid to persons who (but for any steps so taken) would, under relevant arrangements, have received payments in lieu of concessionary coal.
- (2) The consent of the Treasury shall be required for the making of payments under this section.
- (3) In this section—

“concessionary coal” means coal or other solid fuel supplied free of charge or at reduced prices; and

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“relevant arrangements” means any arrangements which—

- (a) whether or not they are legally enforceable, are in operation immediately before the restructuring date; and
- (b) provide for the supply of concessionary coal or for the making of payments in lieu of concessionary coal.

20 Extinguishment of loans to the Corporation.

- (1) Where—
 - (a) any sum has been lent (whether before or after the passing of this Act) to the Corporation out of money provided by Parliament, or
 - (b) any sum is for the time being to be taken as having been so lent,
 the Secretary of State may by order extinguish any present or contingent liabilities of the Corporation to make repayments of capital or payments of interest in respect of that sum.
- (2) Subject to the following provisions of this section, section 400(1) of the ^{M18}Income and Corporation Taxes Act 1988 (restriction of tax losses in case of any write-off of government investment) shall not have effect in relation to any extinguishment of liabilities by an order under subsection (1) above.
- (3) Subsection (6) of section 400 of that Act of 1988 shall apply in relation to any such extinguishment as is mentioned in subsection (2) above as if the reference to the body in question were a reference to the Corporation.
- (4) The consent of the Treasury shall be required for the making of an order under this section.
- (5) The power to make an order under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M18 1988 c. 1.

21 Taxation effects of restructuring.

Schedule 4 to this Act (which makes provision about taxation in relation to provisions contained in, or made in connection with, a restructuring scheme) shall have effect.

22 Pensions and miners’ welfare organisations.

- (1) Schedule 5 to this Act (which makes provision, in connection with the restructuring of the Corporation’s undertaking, in relation to the pensions paid to or in respect of its present and former employees and other persons) shall have effect.
- (2) The ^{M19}Miners’ Welfare Act 1952 shall cease to have effect.
- (3) Subsection (3) of section 12 of that Act of 1952 (transfer of the functions under that Act of the Coal Industry Social Welfare Organisation) shall have effect, pending its ceasing to have effect under subsection (2) above, as if the reference to that Organisation’s

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functions under that Act were a reference to all its functions, whether or not under that Act.

Commencement Information

II S. 22(1)(3) in force at 31.10.1994 by S.I. 1994/2552, art. 2, Sch. 1

Marginal Citations

M19 1952 c. 23.

Reduction in membership and dissolution of the Corporation

23 Reduction in membership and dissolution of the Corporation.

- (1) As from such date as the Secretary of State may by order appoint—
- (a) the minimum number of members of the Corporation, in addition to the chairman, shall be one;
 - (b) the requirements of section 2(3) of the 1946 Act and section 1(2) of the ^{M20}Coal Industry Act 1949 as to the persons from amongst whom members of the Corporation are to be appointed shall cease to have effect;
 - (c) there shall be no requirement for a member of the Corporation to be appointed to act as its deputy chairman; and
 - (d) the Secretary of State may at any time, if he considers it appropriate to do so in consequence of the coming into force of any provision of this Act or of any restructuring scheme, by notice in writing remove from office any member of the Corporation, including the chairman;
- and different dates may be appointed under this subsection for the purposes of its different paragraphs.
- (2) As soon after the restructuring date as it appears to the Secretary of State that it is no longer necessary for the Corporation to continue to exist, he may by order dissolve the Corporation on a day specified in the order (“the dissolution date”).
- (3) Where an order under subsection (2) above provides for the Corporation to be dissolved with effect from a time which would not, apart from this subsection, be the end of a financial year of the Corporation, the financial year of the Corporation which is current at that time shall be deemed to end at that time and that order may contain such provision as the Secretary of State thinks fit for modifying the effect of any enactment with respect to—
- (a) the preparation of accounts for the financial year of the Corporation ending with its dissolution; and
 - (b) the making and laying before Parliament of a final report relating to the carrying out of the Corporation’s functions during that financial year.
- (4) The Secretary of State shall consult the Corporation and the Authority before making an order dissolving the Corporation.
- (5) Where any person ceases, by virtue of any provision of this section, to be the chairman or a member of the Corporation before his term of office would otherwise have expired—

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- (a) the Secretary of State shall, with the consent of the Treasury, determine an amount to be paid to that person by way of compensation for loss of office; and
- (b) any amount determined under paragraph (a) above shall be paid to that person—
 - (i) in the case of loss of office by virtue of a notice under subsection (1) (d) above, by the Corporation; and
 - (ii) in the case of loss of office by virtue of the dissolution of the Corporation, by the Secretary of State out of money provided by Parliament.
- (6) Without prejudice to the generality of the powers conferred by virtue of section 12 above, where provision is made by any restructuring scheme for the transfer to any person of any liability of the Corporation under subsection (5) above or under subsection (6) of section 2 of the 1946 Act (salaries, pensions etc. for members), the subsection in question shall have effect subject to the transfer, and the transferred liability shall continue to have effect notwithstanding the coming into force on the dissolution date of any repeal made by this Act.
- (7) Any power to make an order under this section shall be exercisable by statutory instrument; and an order dissolving the Corporation shall not be amended or revoked by any order made on or after the dissolution date.

Commencement Information

I2 S. 23 partly in force: s. 23 not in force at Royal Assent but in force on the restructuring date, see s. 68; 31.10.1994 appointed as the restructuring date for the Act, see S.I. 1994/2553, art. 2; S. 23(1)(a)(b)(c) (d) in force at 30.6.1995 by S.I. 1995/1507, art. 3

Marginal Citations

M20 1949 c. 53.

Abolition of the Domestic Coal Consumers' Council

24 Abolition of the Domestic Coal Consumers' Council.

- (1) The Domestic Coal Consumers' Council shall cease to exist on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) The Secretary of State may, out of money provided by Parliament, pay such compensation to the person who is the chairman of the Domestic Coal Consumers' Council when it ceases to exist as the Secretary of State may determine to be appropriate in respect of that person's loss of office.
- (3) The consent of the Treasury shall be required for the making of a determination under subsection (2) above.

Subordinate Legislation Made

P2 Power exercised (1.3.1995) by S.I. 1995/255, art. 2

Status:

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