



# 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.

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- (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 <sup>M1</sup>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.

#### [<sup>F2</sup>4A Power of the Authority with respect to coal mine water discharge

- (1) The Authority may take such action as it considers appropriate (if any) for the purpose of preventing, or mitigating the effect of, the discharge of water from a coal mine into or on to any land or into any controlled waters.
- (2) In this section and sections 4B and 4C below—
- (a) “controlled waters” has the meaning given by section 104 of the Water Resources Act 1991; and
  - (b) references to coal mines are to coal mines vested in the Authority.

#### Textual Amendments

**F2** Ss. 4A-4C inserted (1.4.2004) by **Water Act 2003 (c. 37)**, **ss. 85(1)**, 105(3); S.I. 2004/641, **art. 3(w)** (with **Sch. 3 para. 7**)

#### 4B Coal mine water discharge: powers of entry

- (1) If the Authority is of the opinion that a discharge of water from a coal mine into or on to any land or into any controlled waters has caused, is causing or is likely to cause—

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- (a) serious pollution of the environment; or
- (b) danger to life or health,

the Authority may, for any purpose specified in subsection (2) below, in writing authorise a person to exercise, in accordance with the terms of the authorisation, any of the powers specified in subsection (3) below.

(2) The purposes are—

- (a) to determine the extent of the pollution or of the danger, or the likelihood of serious pollution or such danger;
- (b) to determine whether, and, if so, how, the Authority should exercise its power under section 4A above;
- (c) to take action under that section.

(3) The powers are—

- (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, using reasonable force) any premises which the authorised person has reason to believe it is necessary for him to enter;
- (b) to use a vehicle or a boat to do so;
- (c) on entering any premises by virtue of paragraph (a) above, to take with him—
  - (i) any other person authorised by the Authority and, if the authorised person reasonably believes he is likely to be obstructed, a constable; and
  - (ii) any equipment or materials needed for any purpose for which the power of entry is being exercised;
- (d) to make such examination and investigation as may in any circumstances be necessary;
- (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above;
- (f) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air or water or land in, on, or in the vicinity of, the premises;
- (g) to require any person to give him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.

(4) The powers which are conferred in relation to any land by this section include power, for the purposes mentioned in subsection (2) above—

- (a) to carry out experimental borings or other works on those premises; and
- (b) to install, keep or maintain monitoring and other apparatus there.

(5) Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of this section shall only be effected—

- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and
- (b) either—
  - (i) with the consent of a person who is in occupation of those premises; or
  - (ii) under the authority of a warrant by virtue of Schedule 1A to this Act.

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- (6) Except in an emergency, where an authorised person proposes to enter any premises and—
- (a) entry has been refused and he reasonably believes that the use of force may be necessary to effect entry; or
  - (b) he reasonably believes that entry is likely to be refused and that the use of force may be necessary to effect entry,
- any entry on to those premises by virtue of this section shall be effected only under the authority of a warrant by virtue of Schedule 1A to this Act.
- (7) In relation to any premises belonging to or used for the purposes of the United Kingdom Atomic Energy Authority, subsections (1) to (3) above shall have effect subject to section 6(3) of the Atomic Energy Authority Act 1954 (which restricts entry to such premises where they have been declared to be prohibited places for the purposes of the Official Secrets Act 1911).
- (8) Schedule 1A to this Act shall have effect with respect to the powers of entry and related powers which are conferred by this section.
- (9) In this section, “premises” includes any land, vehicle or vessel, and any plant which is designed to move or be moved (whether or not on roads).

#### Textual Amendments

- F2** Ss. 4A-4C inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 85(1)**, 105(3); S.I. 2004/641, art. 3(w) (with [Sch. 3 para. 7](#))

#### 4C Coal mine water discharge: compulsory purchase of land

- (1) The Authority may be authorised by the Secretary of State to purchase compulsorily any land anywhere in England and Wales where he is of the opinion that—
- (a) the purchase is required by the Authority for the purpose of preventing, or mitigating the effect of, a discharge of water from a coal mine; and
  - (b) the discharge has caused, is causing or is likely to cause significant pollution of controlled waters or serious harm to human health.
- (2) The power of the Secretary of State under subsection (1) above shall include power—
- (a) to authorise the acquisition of interests in, and rights over, land by the creation of new interests and rights; and
  - (b) by authorising the acquisition by the Authority of any rights over land which is to be or has been acquired by the Authority, to provide for the extinguishment of those rights.
- (3) Without prejudice to the generality of subsection (1) above, the land which the Authority may be authorised under that subsection to purchase compulsorily shall include land which is or will be required for the purpose of being given in exchange for, or for any right over, any other land which for the purposes of the Acquisition of Land Act 1981 is or forms part of a common, open space or a fuel or field garden allotment.
- (4) The Acquisition of Land Act 1981 shall apply to any compulsory purchase under subsection (1) above of any land by the Authority; and Schedule 3 to that Act shall

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apply to the compulsory acquisition under that subsection of rights by the creation of new rights.

- (5) Schedule 1B to this Act shall have effect for the purpose of modifying enactments relating to compensation and the provisions of the Compulsory Purchase Act 1965 in their application in relation to the compulsory acquisition under subsection (1) above of a right over land by the creation of a new right.]

#### Textual Amendments

- F2** Ss. 4A-4C inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), ss. **85(1)**, 105(3); S.I. 2004/641, art. 3(w) (with [Sch. 3 para. 7](#))

## 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.
- (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.

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- (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.
- (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.



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- (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.

### **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

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section 1 of the <sup>M2</sup>Continental Shelf Act 1964, as read with section 2(3) of the <sup>M3</sup>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 <sup>M4</sup>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 <sup>M5</sup>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.  
**M4** 1987 c. 49.  
**M5** 1964 c. 29.

## 9 Exploitation rights: oil and gas.

- (1) It is hereby declared, without prejudice to [<sup>F3</sup>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

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- (b) any right, without a licence under [<sup>F4</sup>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 [<sup>F5</sup>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
- (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

**F3** 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)

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| <p><b>F4</b> Words in s. 9(1)(b) substituted (15.2.1999) by 1998 c. 17, s. 50, <b>Sch. 4 para. 38(3)(b)</b>(with Sch. 3 para. 5(1)); S.I. 1999/161, <b>art. 2(1)</b></p> <p><b>F5</b> Words in s. 9(4) inserted (15.2.1999) by 1998 c. 17, s. 50, <b>Sch. 4 para. 38(3)(c)</b>(with Sch. 3 para. 5(1)); S.I. 1999/161, <b>art. 2(1)</b></p> |
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## 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 <sup>M6</sup>Limitation Act 1980 (time limits on actions to recover land and extinction of titles); or
  - (b) under section 1 or 2 of the <sup>M7</sup>Prescription and Limitation (Scotland) Act 1973 (prescriptive possession on *ex facie* valid deed).
- (3) Subject to section 13(8) of the <sup>M8</sup>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.
- (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.

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- (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.
- (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—

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- (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 <sup>M9</sup>National Coal Board (Additional Powers) Act 1966 and section 9 of the <sup>M10</sup>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.
- (9) Subsection (1) above shall be without prejudice to any powers conferred on the Corporation by the <sup>M11</sup>British Coal and British Rail (Transfer Proposals) Act 1993.

#### Marginal Citations

**M9** 1966 c. 47.

**M10** 1977 c. 39.

**M11** 1993 c. 2.

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## **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
  - (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.

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- (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—
  - (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



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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.
- (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,

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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—
- (a) payments under section 4 of the <sup>M12</sup>Coal Industry Act 1967 or section 3 of the <sup>M13</sup>Coal Industry Act 1982 (payments providing re-imbursement of contributions to early retirement benefits etc.);
  - (b) payments under section 2 of the <sup>M14</sup>National Coal Board (Finance) Act 1976 (payments towards mineworkers' pension scheme deficiency);
  - (c) grants under—
    - (i) section 6 of the <sup>M15</sup>Coal Industry Act 1977 (pit closure grants for certain financial years); or
    - (ii) section 4 of the <sup>M16</sup>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

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- 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 <sup>M17</sup>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, 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.

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- (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
  - “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,

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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 <sup>M18</sup>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 <sup>M19</sup>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 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.

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*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 <sup>M20</sup>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—
- (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

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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.

**Subordinate Legislation Made**

- P2** S. 23(2) power exercised: 27.3.2004 appointed as the dissolution date, see s. 68(3) and [S.I. 2004/144](#), art. 3

**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*

**F<sup>6</sup>24 Abolition of the Domestic Coal Consumers' Council.**

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**Textual Amendments**

- F6** [S. 24](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 5** Group 8

**PART II**

LICENSING OF COAL-MINING OPERATIONS

*Coal-mining operations to be licensed*

**25 Coal-mining operations to be licensed.**

- (1) Subject to subsection (3) below, coal-mining operations to which this section applies shall not, at any time on or after the restructuring date, be carried on by any person except under and in accordance with a licence under this Part.
- (2) This section applies to any coal-mining operations in so far as they—
- (a) consist in the winning, working or getting (with or without other minerals) of any coal, in the treatment of coal in the strata for the purpose of winning any

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- product of coal or in the winning, working or getting of any product of coal resulting from such treatment;
- (b) are carried on in relation to coal in any part of Great Britain, in relation to coal under the territorial sea adjacent to Great Britain or in relation to coal in any designated area; and
  - (c) are neither carried on exclusively for the purpose of exploring for coal nor confined to the digging or carrying away of coal that it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal.
- (3) Subject to the following provisions of this Act and to the provisions of any restructuring scheme, where—
- (a) a licence under subsection (2) of section 36 of the 1946 Act (licences from the Corporation to work or get coal) is in force immediately before the restructuring date, and
  - (b) that licence authorises the carrying on of any coal-mining operations to which this section applies,
- the authorisation contained in that licence shall have effect on and after that date as an authorisation for the carrying on of those operations without a licence under this Part and, accordingly, so as to prevent the carrying on of any operations under and in accordance with that authorisation from constituting a contravention of subsection (1) above.
- (4) Where any authorisation has effect in accordance with subsection (3) above, it shall so have effect, except to the extent that a restructuring scheme otherwise provides—
- (a) subject to the same conditions and to the same powers of revocation and other provisions for expiry and termination as, immediately before the restructuring date, applied to the licence under section 36(2) of the 1946 Act; but
  - (b) as if the powers of the Corporation under that licence were powers of the Authority.
- (5) In this section “designated area” has the same meaning as in section 8 above.

#### *Licences under Part II*

## **26 Grant of licences.**

- (1) Subject to subsection (6) below, it shall be the Authority which shall have the power to grant a licence under this Part.
- (2) An application for a licence under this Part may be made by any person who has acquired, or is proposing to acquire, (whether from the Authority or some other person) —
- (a) such an interest in land comprised in the area with respect to which the application is made, or
  - (b) such rights in relation to coal in that area,
- as, apart from the need for a licence, would entitle him to carry on the coal-mining operations to which the application relates.
- (3) Where any area of Great Britain, of the territorial sea adjacent to Great Britain or of the continental shelf is one—



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- (a) interests or rights in or in relation to the whole or any part of which may be acquired (in addition to any such rights as may be contained in a licence under this Part) from the Authority, and
  - (b) in relation to which the Authority considers that it is appropriate to do so, the Authority may issue such specific or general invitations as it thinks fit for applications or, as the case may be, further applications to be made in respect of that area for the grant of licences under this Part.
- (4) An applicant for a licence under this Part shall pay to the Authority such fee (if any) in respect of the Authority's handling of that application as, having regard to—
  - (a) the nature of the application, and
  - (b) any information published under section 30 below with respect to the fixing of the fees for handling applications,the Authority may reasonably require.
- (5) Without prejudice to the Authority's power (subject to its duties under sections 2 to 4 above) to take into account all such factors as it thinks fit in determining whether, and subject to what conditions, to grant a licence under this Part, the factors that may be taken into account shall include, in particular, the terms on which the applicant, or any other applicant with respect to the same area, is offering to acquire from the Authority any such interests or rights as are mentioned in subsection (2) above.
- (6) Where—
  - (a) provision is made by any restructuring scheme for any interest or rights in or in relation to any coal or coal mine to be created in any person's favour or to be transferred to any person, and
  - (b) that person requires the interest or rights for the purpose of enabling him to continue, resume or begin the carrying on (whether from the coming into force of the scheme or from some future time) of any coal-mining operations,this Act shall have effect as if the Secretary of State, as well as the Authority, was entitled, at any time before the coming into force of the scheme, to exercise the Authority's power to grant a licence to that person authorising the carrying on of those operations and, for that purpose, was entitled to act on the Authority's behalf in the exercise of any of its other powers.

## **27 Authorisation contained in licence.**

- (1) The provisions of a licence under this Part shall specify or describe the coal-mining operations which, subject to its conditions, are authorised by the licence.
- (2) The provisions included in a licence in pursuance of subsection (1) above —
  - (a) shall identify the area of Great Britain, of the territorial sea adjacent to Great Britain or of the continental shelf where the operations are to be carried on; and
  - (b) may restrict the authorisation contained in the licence to operations carried on within such period as may be specified in the licence or as may be determined in a manner so specified;and provision made by virtue of paragraph (a) above may include restrictions as to the depth at which any operations are to be carried on.
- (3) Without prejudice to the generality of subsection (2)(b) above, a licence under this Part may provide—

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- (a) for the coming into force of the authorisation contained in the licence, or of any conditions or other provisions of the licence, to be postponed until after the acquisition by the holder of the licence of any interest or right in or in relation to any land or other property or until after such other requirements as may be specified or described in the licence have been satisfied; and
  - (b) for the licence to lapse if the interest or right is not acquired, or the other requirements are not satisfied, within such period as may be so specified.
- (4) Without prejudice to subsection (5) below, the persons who, so long as the authorisation remains in force, are authorised to carry on the operations to which a licence under this Part relates are the holder of the licence and such other persons as may be authorised by the licence or, without any contravention of the conditions of the licence, by the holder of the licence to carry on those operations on his behalf.
- (5) A licence under this Part may contain provision which, in such cases, in such manner and subject to such conditions or consents as may be specified in or required by the provisions of the licence, authorises the transfer of any person's rights and obligations as holder of the licence to another person.
- (6) Without prejudice to any provision made by virtue of section 28(7) below, the conditions and other provisions of a licence under this Part may be modified by the Authority with the agreement of the holder of the licence.

## **28 Conditions of licence: general.**

- (1) A licence under this Part may include such conditions as the Authority, subject to its having regard to its duties under sections 2 to 4 above and to the following provisions of this Act, may think fit.
- (2) The conditions that may be included in a licence under this Part with respect to the carrying on of the coal-mining operations authorised by the licence shall include conditions having effect in relation to the carrying on, in association with those operations, of—
  - (a) coal-mining operations for which no authorisation is required by virtue of this Act;
  - (b) coal-mining operations the authorisation for which is contained in another licence under this Part or is conferred by virtue of section 25(3) above; or
  - (c) any activities carried on for purposes connected with any coal-mining operations to which the conditions relate.
- (3) Conditions included in a licence under this Part may contain provision requiring the holder of the licence to render to the Authority either or both of the following in respect of the exercise of its functions in connection with, or in consequence of, the grant of the licence, that is to say—
  - (a) payments on the grant or coming into force of the licence of such amount as may be determined by or under the conditions; and
  - (b) payments, at times while the licence is in force for any of the purposes of this Act, of such amounts as may be so determined.
- (4) Conditions included in a licence under this Part may contain provision requiring the holder of the licence to secure that—

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- (a) agreements for such purposes as may be specified in the conditions are entered into between the holder of the licence and such other persons as may be specified or described in the licence; and
  - (b) that the terms of those agreements satisfy such requirements as may be so specified or described.
- (5) Conditions included in a licence under this Part may contain provision requiring the holder of the licence to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified.
- (6) Conditions included in a licence under this Part may contain provision for disputes between the Authority and the holder of the licence as to any matter to which the licence relates to be referred to the determination of such person or persons as may be specified in, or appointed in accordance with, the conditions; and any dispute to which any such provision applies shall be determined accordingly.
- (7) Conditions included in a licence under this Part may contain provision for any of the following, that is to say—
- (a) the authorisation contained in the licence, and
  - (b) any of the conditions of the licence, apart from any included by virtue of this subsection,
- to cease to have effect, or to be revoked or otherwise modified, at such times, in such manner and in such circumstances as may be specified in or determined under the conditions.
- (8) Conditions included in a licence under this Part may provide for—
- (a) obligations imposed on any person by the conditions of the licence, and
  - (b) liabilities arising in respect of contraventions by any person of the conditions so included,
- to continue in accordance with the provisions of that licence, and to be capable of arising, after the authorisation contained in the licence has been revoked or is otherwise no longer in force or, where they have already arisen, to continue after the rights and obligations of the holder of the licence have been transferred to another person.
- (9) Subsections (2) to (8) above and section 29 below shall be without prejudice to the generality of subsection (1) above.

## **29 Conditions for the provision of security.**

- (1) Conditions included in a licence under this Part may include provision requiring the holder of the licence, on or before the coming into force of the authorisation contained in the licence and at such subsequent times as may be determined by or under the conditions—
- (a) to provide such security as may be so determined for his performance of any of the obligations to which he is or may become subject, either in accordance with the licence itself or otherwise by virtue of his being at any time the holder of that licence; and
  - (b) for the purposes of that security and in relation to any property or rights in which it consists, to take such steps for or in connection with the establishment and maintenance of any trust or other arrangements as may be so determined.
- (2) Where—

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- (a) any security for the performance of any person's obligations has been provided in accordance with any condition included by virtue of subsection (1) above in a licence under this Part, and
- (b) any trust or other arrangements which have, in pursuance of that condition, been established and maintained for the purposes of that security are for the time being registered under section 35(1)(f) below,

the manner in which, and the purposes for which, that security and any property or rights in which it consists are to be applied and enforceable (whether in the event of that person's insolvency or otherwise) shall be determined in accordance with the trust or other arrangements and without regard to so much of the <sup>M21</sup>Insolvency Act 1986 or any other enactment or rule of law as, in its operation in relation to that person or any conduct of his, would prevent or restrict their being applied in accordance with the trust or other arrangements or would prevent or restrict their enforcement for the purpose of being so applied.

#### Marginal Citations

M21 1986 c. 45.

### 30 Publication of licensing arrangements.

- (1) It shall be the duty of the Authority from time to time to publish such details as it thinks fit of—
  - (a) the manner in which it proposes to exercise and perform its powers and duties under the preceding provisions of this Part; and
  - (b) the arrangements it has made for purposes connected with the exercise and performance of those powers and duties.
- (2) The arrangements referred to in subsection (1) above shall include any arrangements made with respect to the receipt and consideration, together with any application for a licence under this Part, of any application to the Authority for such interests or rights in or in relation to land or other property as the applicant may wish to acquire from the Authority for purposes connected with the operations to which the application for the licence relates.
- (3) Without prejudice to the generality of subsection (1) above or to the Authority's power in accordance with the preceding provisions of this Act to incorporate such provision as it may think fit in any licence under this Part, it shall be the duty of the Authority to publish model provisions for inclusion in licences under this Part and to have regard to the published provisions in determining what provision to incorporate in any such licence.
- (4) Anything published under this section shall be published in such manner, and periodically given such further publicity, as appears to the Authority to be appropriate for securing that it is brought to the attention of persons who are likely from time to time to be interested.

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## *Enforcement*

### **31 Enforcement orders.**

- (1) Subject to subsections (2) and (5) and section 32 below, where the Authority is satisfied—
  - (a) that any person is carrying on any coal-mining operations in contravention of section 25(1) above, or is likely so to carry on any coal-mining operations, or
  - (b) that any person is contravening, or is likely to contravene, any of the conditions of a licence under this Part,the Authority may, by a final enforcement order, make such provision in relation to that person as is requisite for the purpose of securing that there is no contravention of section 25(1) above or, as the case may be, that that condition is complied with.
- (2) Subject to subsection (5) below, where—
  - (a) it appears to the Authority as mentioned in subsection (1)(a) or (b) above, and
  - (b) it appears to the Authority that it is appropriate that a provisional enforcement order be made,the Authority may (instead of taking steps towards the making of a final enforcement order) by a provisional enforcement order make such provision in relation to the person in question as appears to it requisite for the purpose of securing that there is no contravention of section 25(1) above or, as the case may be, that the condition is complied with.
- (3) In determining for the purposes of subsection (2)(b) above whether it is appropriate that a provisional enforcement order be made, the Authority shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of section 25(1) above or the condition in question, is likely to be done, or omitted to be done, before a final enforcement order may be made.
- (4) Subject to subsection (5) and section 32 below, where a provisional enforcement order has been made, the Authority shall consider whether, for the purpose of giving it final effect, it should be confirmed and shall be entitled to confirm it, with or without modifications, if—
  - (a) it is satisfied that the person to whom the order relates—
    - (i) is carrying on any coal-mining operations in contravention of section 25(1) above, or is likely so to carry on any coal-mining operations; or
    - (ii) is contravening, or is likely to contravene, any of the conditions of a licence under this Part;and
  - (b) the provision made by the order (with any modifications) is requisite for the purpose of securing that there is no contravention of section 25(1) above or, as the case may be, that that condition is complied with.
- (5) The Authority shall not make a final enforcement order or make or confirm a provisional enforcement order in relation to any person if it is satisfied—
  - (a) that that person has agreed to take, and is taking, all such steps as it appears to the Authority for the time being to be appropriate for him to take for the purpose of securing that there is no contravention of section 25(1) above or that the condition in question is complied with; or

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- (b) that the contraventions of section 25(1) above or of that condition were, or the apprehended contraventions are, of a trivial nature.
- (6) An enforcement order—
- (a) shall require the person to whom it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;
  - (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
  - (c) may be revoked at any time by the Authority.
- (7) In this Part—
- “enforcement order” means a final enforcement order or a provisional enforcement order;
  - “final enforcement order” means an order under this section other than a provisional enforcement order; and
  - “provisional enforcement order” means an order under this section which, if not previously confirmed under subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.
- (8) This section and sections 32 and 33 below shall be without prejudice to the right of the Authority, where the conditions of any licence under this Part contain provision for a sum determined by or under those conditions to be paid to the Authority, to enforce that condition in proceedings for the recovery of the sum as an amount due to the Authority by virtue of an enactment.

## **32 Procedural requirements for enforcement orders.**

- (1) Before making a final enforcement order or confirming a provisional enforcement order, the Authority shall give notice—
- (a) stating that the Authority proposes to make or confirm the order and setting out its effect;
  - (b) setting out—
    - (i) any condition of a licence for the purpose of securing compliance with which the order is to be made or confirmed;
    - (ii) the acts or omissions which, in the Authority’s opinion, constitute or would constitute contraventions of section 25(1) above or, as the case may be, that condition; and
    - (iii) any other matters which, in the Authority’s opinion, justify the making or confirmation of the order;
- and
- (c) specifying the period (not being less than twenty-eight days from the date of the service of the notice on the person to whom it relates) within which representations or objections with respect to the proposed order or proposed confirmation may be made;
- and, before making or confirming the order, the Authority shall consider any representations or objections which are duly made and not withdrawn.
- (2) A notice under subsection (1) above shall be given—

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- (a) by serving it, together with a copy of the proposed order or of the order as proposed to be confirmed, on the person to whom the order relates; and
  - (b) by taking such steps (if any) for publishing a copy of the notice as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and of enabling them to make representations and objections within the period specified in the notice.
- (3) The Authority, having given notice under subsection (1) above, shall not make the final enforcement order with modifications that are not contained in the notice or confirm the provisional enforcement order with any such modifications, except—
  - (a) with the consent to the modifications of the person to whom the order relates; or
  - (b) after complying with the requirements of subsection (4) below.
- (4) The requirements mentioned in subsection (3) above are that the Authority shall—
  - (a) serve on the person to whom the order relates such notice as appears to the Authority requisite of its proposal to make or confirm the order with modifications;
  - (b) in that notice specify the period (not being less than twenty-eight days from the date of its service on the person to whom the order relates) within which representations or objections with respect to the proposed modifications may be made;
  - (c) take such steps (if any) for publishing a copy of the notice as it considers appropriate for the purpose of bringing the proposal to the attention of persons likely to be affected by it and of enabling them to make representations and objections within the period specified in the notice; and
  - (d) consider any representations or objections which are duly made and not withdrawn.
- (5) As soon as practicable after making a final enforcement order or making or confirming a provisional enforcement order, the Authority shall—
  - (a) serve a copy of the order or, as the case may be, of the order as confirmed on the person to whom it relates; and
  - (b) take such steps (if any) for publishing notice of the order and, where the case so requires, of its confirmation and any modifications subject to which it is confirmed as the Authority considers appropriate for the purpose of bringing the matters contained in the notice to the attention of persons likely to be affected by them.
- (6) Before revoking an enforcement order, other than an unconfirmed provisional enforcement order, the Authority shall give notice—
  - (a) stating that it proposes to revoke the order and setting out the effect of the order; and
  - (b) specifying the period (not being less than twenty-eight days from the date of the service of the notice on the person to whom the order relates) within which representations or objections with respect to the proposed revocation may be made;and, before revoking the order, the Authority shall consider any representations or objections which are duly made and not withdrawn.

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- (7) If, after giving a notice under subsection (6) above, the Authority decides not to revoke the order to which the notice relates, it shall give notice of its decision.
- (8) A notice under subsection (6) or (7) above shall be given—
  - (a) by serving it on the person to whom the order relates; and
  - (b) by taking such steps (if any) for publishing a copy of the notice as the Authority considers appropriate for the purpose of bringing the matters contained in the notice to the attention of persons likely to be affected by them and, in the case of a notice under subsection (6) above, of enabling them to make representations and objections within the period specified in the notice.

### **33 Validity and effect of enforcement orders.**

- (1) If the person to whom an enforcement order relates is aggrieved by the order and desires to question its validity on the ground—
  - (a) that its making or confirmation was not within the powers conferred by section 31 above, or
  - (b) that any of the requirements of section 32 above have not been complied with in relation to it,
 he may, within forty-two days from the date of service on him of a copy of the order or, as the case may be, of the order as confirmed, make an application to the court under this section.
- (2) On any such application the court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.
- (3) Except as provided by this section, the validity of an enforcement order shall not be questioned by any legal proceedings whatever.
- (4) The obligation to comply with an enforcement order shall be a duty owed to any person who may be affected by a contravention of the order.
- (5) Where a duty is owed by any person to another person by virtue of subsection (4) above, any breach of the duty which causes that other person to sustain loss or damage shall be actionable against the person in breach at the suit or instance of that other person.
- (6) In any proceedings brought against any person in pursuance of subsection (5) above, it shall be a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid the contravention of the order.
- (7) Without prejudice to any right which any person may have by virtue of subsection (4) or (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of an enforcement order, compliance with any such order shall be enforceable by civil proceedings by the Authority for an injunction or for interdict or for any other appropriate relief.
- (8) In this section and section 34 below “the court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.



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### **34 Power to require information for the purposes of enforcement.**

- (1) Where it appears to the Authority—
  - (a) that there is or may have been a contravention of section 25(1) above, or
  - (b) that any person is contravening, or may have contravened, any condition of a licence under this Part,the Authority may, for any purpose connected with such of its functions under section 31 above as are exercisable in relation to that matter, serve a notice under subsection (2) below on any person.
- (2) A notice under this subsection is a notice which—
  - (a) requires the person on whom it is served to produce, at a time and place specified in the notice, to the Authority or to any person appointed by the Authority for the purpose, any documents which are specified or described in the notice and are in that person's possession or under his control; or
  - (b) requires that person, if he is carrying on a business, to furnish the Authority, at a time and place and in the form and manner specified in the notice, with such information as may be specified or described in the notice.
- (3) No person shall be required under this section to produce any documents which he could not be compelled to produce in civil proceedings in the court or, in complying with any requirement for the furnishing of information, to disclose any information which he could not be compelled to give in evidence in any such proceedings.
- (4) A person who without reasonable excuse fails to do anything required of him by a notice under subsection (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) A person who intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (2) above to produce shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) If a person makes default in complying with a notice under subsection (2) above, the court may, on the application of the Authority, make such order as the court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.
- (7) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Authority or the Director of Public Prosecutions.

### *Supplemental*

### **35 Register of licences and orders.**

- (1) Subject to subsections (2) and (3) below, the Authority shall establish and maintain a register in which it shall enter particulars of—
  - (a) every licence granted under this Part and every pending application for such a licence;

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*Status: Point in time view as at 22/07/2004.*

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- (b) every licence in pursuance of which any person is or has been entitled to carry on coal-mining operations by virtue of section 25(3) above;
  - (c) every transfer, in accordance with the provisions of a licence under this Part, of the rights and obligations of any person as the holder of that licence;
  - (d) every revocation of, or of the authorisation contained in, a licence falling within paragraph (a) or (b) above;
  - (e) every other such modification of a licence falling within paragraph (a) or (b) above as relates to the particulars of that licence which are entered in the register;
  - (f) such trusts and other arrangements as for the time being have effect for the purposes of any security provided under the conditions included in licences under this Part in pursuance of the Authority's duty under section 2(1)(c) above; and
  - (g) every enforcement order made under section 31 above, every confirmation of a provisional enforcement order, the terms on which every confirmed order is confirmed and every revocation of an enforcement order.
- (2) The particulars entered in the register in relation to any licence shall be confined to—
- (a) the date of the grant of the licence and the time of the coming into force of the authorisation contained in the licence;
  - (b) the identity of the person to whom the licence is granted and a description of any other persons who are entitled, under the licence, to carry on the coal-mining operations to which it relates;
  - (c) the area to which the authorisation contained in the licence relates;
  - (d) any restrictions contained in the licence as to the depth at which the coal-mining operations authorised by the licence may be carried on;
  - (e) any other provisions of the licence restricting the coal-mining operations that are authorised by the licence to specified descriptions of operations;
  - (f) any area designated by the licence under section 37 below as the area of responsibility of the holder of the licence;
  - (g) any provision included in the licence for the purposes of section 58 below and any conditions requiring the disclosure of information which may be of the description specified for those purposes; and
  - (h) any provisions of the licence for the expiry of the authorisation contained in the licence or for determining when an area ceases to be the area of responsibility of the holder of the licence.
- (3) The particulars entered in the register in relation to any pending application for a licence under this Part shall be confined to so much of the application as contains proposals with respect to any of the matters mentioned in subsection (2) above.
- (4) The particulars entered in the register in relation to any trust or other arrangements falling within subsection (1)(f) above shall be confined to particulars identifying the form (but not the value or amount) of the security in question, the person who provided the security and the trustees or other person responsible for administering the security or determining the use to which it is put.

## **36 Insolvency of licensed operators etc.**

- (1) A licence under this Part and the obligations arising out of, or incidental to, such a licence shall not be treated as property for any of the purposes of the <sup>M22</sup>Insolvency Act

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1986 (“the 1986 Act”); but this subsection shall be without prejudice to so much of any licence as, by virtue of section 27(4) or (5) above, authorises the official receiver or any person who is for the time being acting as an insolvency practitioner in relation to the holder of the licence to carry on any of the coal-mining operations to which the licence relates or to transfer the rights and obligations of the holder of the licence to another person.

- (2) Where, in the case of the winding up of a company which is or has been a licensed operator, the liquidator or official receiver sends to the registrar of companies—
- (a) any such account or return as is mentioned in section 94(3) or 106(3) of the 1986 Act (account of the winding up and return of final meeting or meetings),
  - (b) any notice for the purposes of section 172(8) of that Act (notice of final meeting and of its decisions),
  - (c) an application under section 202(2) of that Act (applications for early dissolution),
  - (d) a copy of such an order for dissolution of the company as is mentioned in section 204(4) of that Act (order for early dissolution in Scotland), or
  - (e) such a notice as is mentioned in section 205(1)(b) of that Act (notice that winding up complete),

the liquidator or official receiver, on sending it to the registrar of companies, shall also send a copy to the Authority.

[<sup>F7</sup>(2A) Where the administrator of a company which is or has been a licensed operator files a notice with the registrar of companies under paragraph 84(1) of Schedule B1 to the Insolvency Act 1986 (c. 45) (administration: moving to dissolution), he shall at the same time send a copy to the Authority.]

- (3) A liquidator [<sup>F8</sup>or administrator ] who contravenes subsection (2) [<sup>F9</sup>or (2A)] above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (4) In any proceedings against any person for an offence under subsection (3) above it shall be a defence for that person to show that at the time of the contravention he did not know and had no grounds for suspecting that the company in question had ever been a licensed operator.
- (5) In the case of any company which is either—
- (a) the holder of a licence under this Part, or
  - (b) a licensed operator by virtue of section 25(3) above,

the Authority shall be included in the persons who are entitled to make an application under section 651(1) or 653(2) of the <sup>M23</sup>Companies Act 1985 (application to cancel the dissolution of a company) or under section 201(3), 202(5), 204(5) or 205(3) or (5) of the 1986 Act (applications in the case of a winding up for the deferment of a company’s dissolution).

- (6) Accordingly, subsection (1) of section 653 of that Act of 1985 (section to apply where specified persons feel aggrieved) shall be disregarded where an application under subsection (2) of that section is made by virtue of subsection (5) above.
- (7) In this section “registrar of companies” has the same meaning as in the <sup>M24</sup>Companies Act 1985; and the reference in subsection (1) above to a person’s acting as an insolvency practitioner shall be construed in accordance with section 388 of the 1986 Act.

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#### Textual Amendments

- F7** S. 36(2A) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 17 para. 48(2)** (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)
- F8** Words in s. 36(3) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 17 para. 48(3)(a)** (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)
- F9** Words in s. 36(3) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 17 para. 48(3)(b)** (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)

#### Marginal Citations

- M22** 1986 c. 45.
- M23** 1985 c. 6.
- M24** 1985 c. 6.

## PART III

### RIGHTS AND OBLIGATIONS IN CONNECTION WITH COAL MINING

#### *Areas of responsibility*

#### **37 Areas of responsibility.**

- (1) A licence under Part II of this Act may designate, in relation to the person who is the holder of the licence, the area which is to be treated for the purposes of this Part as that person's area of responsibility.
- (2) The area designated under this section may comprise—
  - (a) the whole or any one or more parts of the area where the operations to which the licence relates are to be carried on; or
  - (b) the whole or any parts of that area together with such other areas appearing to the Authority to be capable of being affected by those operations as may be described in the licence.
- (3) Subject to subsection (4) below, an area designated under this section as an area of responsibility shall continue to be treated for the purposes of this Part as the area of responsibility of the holder of the licence in question until such time as may be determined, in accordance with the provisions of the licence, to be the time for responsibilities in respect of the designated area to revert (subject to any further designation of the whole or any part of that area) to the Authority.
- (4) The conditions included in a licence under Part II of this Act may provide for the modification from time to time of the area of responsibility of the holder of the licence.
- (5) For the purposes of subsection (3) above it shall be immaterial that the authorisation contained in the licence in question is revoked or otherwise ceases to have effect before the time determined for the purposes of that subsection.

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### *Withdrawal of support from land*

## **38 Rights to withdraw support.**

- (1) Subject to the following provisions of this Part, on and after the restructuring date, any licensed operator shall be entitled, so far as may be reasonably requisite for the carrying on of any coal-mining operations to which section 25 above applies, to withdraw support from any land to which this section applies.
- (2) This section applies to any land, not being land comprised in an underground coal mine, if—
  - (a) a notice under this section relating to that land has been given in accordance with section 39 below and has come into force;
  - (b) immediately before the restructuring date the Corporation was entitled under and in accordance with section 2 of the 1975 Act (rights to withdraw support) to withdraw support from that land; or
  - (c) the following conditions are satisfied, that is to say—
    - (i) the relevant date of publication of a notice under section 2 of the 1975 Act relating to that land is a date not more than three months before the restructuring date;
    - (ii) the Corporation would (apart from subsection (7) below) have become entitled as mentioned in paragraph (b) above at the end of the period of three months beginning on the relevant date of publication; and
    - (iii) that period has expired;and a right under this section shall have effect whether the coal in relation to which the operations concerned are carried on lies under the land to which this section applies or under adjacent land.
- (3) A notice under this section shall come into force with whichever is the later of the following, that is to say—
  - (a) the expiry of the period of three months beginning with the day after the relevant date of publication; and
  - (b) the time when particulars of the notice are first registered by the Authority in accordance with section 56 below.
- (4) In the case of any licensed operator who is entitled by virtue of this section to withdraw support from any land, the rights comprised in his entitlement shall also be exercisable by any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on.
- (5) In this section and section 39 below “relevant date of publication”—
  - (a) in relation to a notice under section 2 of the 1975 Act, has the same meaning as in that section; and
  - (b) in relation to a notice under this section, means whichever is the later of—
    - (i) the date of the publication of the notice in the London or Edinburgh Gazette; and
    - (ii) the date of the first of the publications for the purposes of section 39(3)(b) below.
- (6) In this section “underground coal mine” means any coal mine which is a mine within the meaning of the <sup>M25</sup>Mines and Quarries Act 1954.

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- (7) Subject to the preceding provisions of this section, the rights conferred on the Corporation by section 2 of the 1975 Act shall not be exercisable at any time on or after the restructuring date.

**Marginal Citations**

M25 1954 c. 70.

**39 Notices under section 38.**

- (1) A notice under section 38 above shall not be given except—
- (a) by a person who on the relevant date of publication is a licensed operator and, as the holder of a licence under Part II of this Act, has an area of responsibility that consists of or includes all the land to which the notice relates; or
  - (b) by a person who on that date—
    - (i) is authorised by such a licence, or by virtue of subsection (3) of section 25 above, to carry on coal-mining operations to which that section applies; and
    - (ii) has the approval of the Authority for the giving of a notice relating to the land in question.
- (2) A notice under section 38 above—
- (a) shall indicate the land to which it relates either by reference to a map or in any other manner which, in the circumstances, is sufficient to identify it;
  - (b) shall identify the person by whom the notice is given and summarise the respects in which the requirements of subsection (1) above are satisfied in relation to that person; and
  - (c) shall state that there are proposals to carry on coal-mining operations which may require the exercise in relation to that land of such a right as is mentioned in section 38(1) above.
- (3) A notice under section 38 above shall be given by being published—
- (a) in the London Gazette or the Edinburgh Gazette, according to whether the land to which the notice relates is in England and Wales or in Scotland; and
  - (b) at least once in each of two successive weeks, in newspapers circulating in the locality where that land is situated.
- (4) Not later than the relevant date of publication of a notice under section 38 above, the person giving that notice shall—
- (a) serve a copy of the notice on every planning authority within whose area or district any part of the land to which the notice relates is situated; and
  - (b) post a copy or copies of the notice in some conspicuous place or places on that land.
- (5) In subsection (4) above “planning authority” means any local planning authority within the meaning of the <sup>M26</sup>Town and Country Planning Act 1990 or any planning authority within the meaning of Part IX of the <sup>M27</sup>Local Government (Scotland) Act 1973.

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#### Marginal Citations

M26 1990 c. 8.

M27 1973 c. 65.

#### 40 Savings for special cases.

- (1) Where the Corporation is bound, immediately before the restructuring date, by—
  - (a) the provisions of an agreement which—
    - (i) was made between the Corporation or any predecessor of the Corporation and a person who (within the meaning of the <sup>M26</sup>Coal Act 1938) was interested in any land, and
    - (ii) has effect so as to require the Corporation to comply with an undertaking which is contained in the agreement and is an undertaking not to work any coal, not to work minerals or not to withdraw support from any land,
  - (b) any provisions containing any restriction, terms or conditions applicable to the working of coal by virtue of any agreement entered into after 1st July 1942 and before the restructuring date, or
  - (c) the provisions of any coal-mining lease (within the meaning of that Act of 1938) prohibiting the withdrawal of support from any land specified in the lease,  
section 38 above shall have effect subject to those provisions, but only so far as they have effect in relation to the Corporation or any other person who is for the time being bound by them.
- (2) Section 38 above shall not affect any restrictions, terms or conditions applicable to the working of coal by virtue of—
  - (a) any order made (whether before or after the restructuring date) under section 1 or 7 of the <sup>M27</sup>Mines (Working Facilities and Support) Act 1966 (acquisition of rights to work minerals); or
  - (b) section 33 of the <sup>M28</sup>Coal Act 1938 (restriction on working of coal vested in statutory undertakers) or any consent required by virtue of that section;  
and section 38 above shall be without prejudice to the effect in relation to any restrictions, terms or conditions falling within paragraph (a) or (b) above of the provisions of any restructuring scheme.
- (3) Section 38 above shall have effect subject to any such right as was referred to in section 34(1) of the <sup>M29</sup>Coal Act 1938 (statutory and corresponding rights of the Crown, local authorities and statutory undertakers) and is a right to which the activities of the Corporation were subject immediately before the restructuring date.
- (4) Nothing in section 38 above shall confer any entitlement to withdraw support in connection with the working of any coal or coal mines comprised in land in the Forest of Dean or any other part of the area of what was the Hundred of Saint Briavels in the county of Gloucester, being land in respect of which the privileges of free miners are exercisable.
- (5) References in this section, in relation to an agreement which has effect with respect to the working of any coal, to a predecessor of the Corporation are references to the Coal Commission or the person in whom the fee simple of the coal (or, in Scotland, the

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interest of proprietor of the *dominium utile* of the coal) was vested when the agreement was entered into.

- (6) The reference in subsection (5) above to a person in whom the interest of proprietor of the *dominium utile* was vested when the agreement was entered into shall, as regards coal in the undivided ownership of the Crown at that time, be construed as a reference to the Crown.
- (7) Nothing in this Act or in any other enactment shall be taken as preventing any person from entering, at any time on or after the restructuring date, into an agreement by virtue of which he accepts a prohibition or restriction on the exercise of his rights under section 38 above.

#### Marginal Citations

- M28** 1938 c. 52.  
**M29** 1966 c. 4.  
**M30** 1938 c. 52.  
**M31** 1938 c. 34.

## 41 Revocation of right to withdraw support.

- (1) Where the Authority gives a notice under this section in relation to any land to which section 38 above applies, that section shall cease to apply to that land in relation to any coal-mining operations carried on after the relevant date of publication.
- (2) The Authority shall not give a notice under this section unless it appears to the Authority that there is not for the time being any person who is authorised, by a licence under Part II of this Act or by virtue of section 25(3) above, to carry on coal-mining operations which might involve the withdrawal of support from the land in question.
- (3) A notice under this section—
- (a) shall indicate the land to which it relates either by reference to a map or in any other manner which, in the circumstances, is sufficient to identify it;
  - (b) shall state that section 38 above is to cease to apply to the land; and
  - (c) shall be given by being published—
    - (i) in the London Gazette or the Edinburgh Gazette, according to whether the land to which the notice relates is in England and Wales or in Scotland; and
    - (ii) at least once in each of two successive weeks, in newspapers circulating in the locality where that land is situated.
- (4) Not later than the relevant date of publication of a notice under this section, the Authority shall serve a copy of the notice on every planning authority within whose area or district any part of the land to which the notice relates is situated.
- (5) Subsection (1) above shall be subject to the effect of any notice under section 38 above which is given at any time after the relevant date of publication of the notice under this section.
- (6) In this section—
- “planning authority” means any local planning authority within the meaning of the <sup>M32</sup>Town and Country Planning Act 1990 or any planning



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authority within the meaning of Part IX of the <sup>M33</sup>Local Government (Scotland) Act 1973; and

“relevant date of publication”, in relation to a notice under this section, means whichever is the later of—

- (a) the date of the publication of the notice in the London or Edinburgh Gazette; and
- (b) the date of the first of the publications of that notice for the purposes of subsection (3)(c)(ii) above.

#### Marginal Citations

M32 1990 c. 8.

M33 1973 c. 65.

### *Subsidence*

#### **42 Subsidence damage to which 1991 Act applies.**

- (1) Section 1 of the 1991 Act (preliminary) shall have effect so far as it relates to operations carried on at any time on or after the restructuring date with the substitution for subsection (3) (meaning of “lawful coal-mining operations”) of the following subsection, that is to say—

“(3) In subsection (1) above “lawful coal-mining operations” means any coal-mining operations to which section 25 of the Coal Industry Act 1994 applies (including operations carried on in contravention of subsection (1) of that section and those that are actionable apart from this Act) which—

- (a) are carried on by a person who is for the time being a licensed operator within the meaning of that Act; or
- (b) are carried on by a person who has been such a licensed operator and in continuation of operations begun by that person before he ceased to be such an operator;

but for the purposes of this subsection any operations carried on or begun by any person as a person who is for the time being authorised to carry on coal-mining operations on behalf of a person who is or has been a licensed operator shall be treated as carried on or begun by the latter person, whether or not the authorisation extends to the operations in question.”

- (2) Sections 34 and 35 of the 1991 Act (which make provision with respect to the construction of any building, structure or works on land from which the Corporation is entitled to withdraw support) shall cease to have effect on the restructuring date.

#### **43 Persons responsible for subsidence.**

- (1) Except where Schedule 6 to this Act otherwise provides, the 1991 Act and the regulations under that Act which are in force immediately before the restructuring date shall have effect on and after that date with the substitution, in relation to any subsidence damage, for references to the Corporation of references to the person who is the responsible person in relation to that damage.

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- (2) Subject to the following provisions of this section and to section 44 below, the responsible person, in relation to any subsidence damage, shall for the purposes of this Part be—
- (a) the person with responsibility for subsidence affecting the land which has been damaged or, as the case may be, the damaged part of it; or
  - (b) in the case of damage to other property, the person with responsibility for subsidence affecting the land where that property or, as the case may be, the damaged part of it was situated at the time of the damage.
- (3) For the purposes of this Part, the person with responsibility for subsidence affecting any land shall be—
- (a) where that land is for the time being within the area of responsibility of any person as the holder of a licence under Part II of this Act, that person; and
  - (b) in any other case, the Authority.
- (4) For the purposes of this Part a person is the responsible person in relation to any subsidence damage whether that damage was caused or occurred before or after the time when that person became the person with responsibility for subsidence affecting the land in question.
- (5) Accordingly, but subject to section 44 below, where, by virtue of any designation or of any transfer of rights and obligations or of the operation of any such provision as is mentioned in section 37(3) above, any person (“the successor”) becomes the person with responsibility for subsidence affecting any land—
- (a) all the rights and liabilities under the 1991 Act, or under any regulations made under that Act or this Part, of the successor’s predecessor as the person with responsibility for subsidence affecting that land (“the predecessor”) shall be transferred, by virtue only of his becoming the person with responsibility, to the successor; and
  - (b) anything which—
    - (i) has been done under or for any of the purposes of the 1991 Act or those regulations by or in relation to the predecessor, or
    - (ii) is deemed to have been so done,
 shall be deemed, so far as necessary for that purpose and for the purposes of the continuation by or against the successor of any proceedings under or for the purposes of that Act or those regulations, to have been done by or in relation to the successor.
- (6) It shall be the duty of a person who becomes as mentioned in subsection (5) above the person with responsibility for subsidence affecting any land to take all reasonable steps to secure that the change in the person with that responsibility does not result in any undue delay in the performance of any obligations falling by virtue of that change to be performed by that person.
- (7) Subsections (5) and (6) above shall have effect in relation to the coming into force of subsection (1) above on the restructuring date as they have effect in relation to any other transfer of rights and obligations but as if the references to the predecessor were references to the Corporation.
- (8) Schedule 6 to this Act shall have effect for making provision, in addition to or instead of that made by subsection (1) above, for or in connection with the modification of references to the Corporation in the 1991 Act.

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#### **44 Cases where there is more than one responsible person.**

- (1) Where, in the case of any subsidence damage, the area of responsibility of any person as holder of a licence under Part II of this Act includes only part of the damaged land or, as the case may be, of the land where the damaged property was situated, then for the purposes of this Part—
- (a) that person, together with—
    - (i) every other person within whose area of responsibility any part of that land is situated, and
    - (ii) if any part of that land is not situated within the area of responsibility of any person, the Authority,shall be the responsible persons in relation to that damage; and
  - (b) the obligations and liabilities by virtue of section 43 above of the responsible person shall be obligations and liabilities imposed jointly and severally on the persons mentioned in paragraph (a) above.
- (2) Subsection (5) of section 43 above shall have effect as modified by subsection (3) below in any case where—
- (a) a person ceases at any time to be the person with responsibility for subsidence affecting any land but continues, after that time, to be the person with responsibility for subsidence affecting other land; and
  - (b) the effect of subsection (1) above in relation to the circumstances specified in paragraph (a) above is that both the predecessor and the successor are responsible persons in relation to any subsidence damage to which any of the predecessor's rights or liabilities relate.
- (3) In any case where, by virtue of subsection (2) above, this subsection has effect—
- (a) the rights and liabilities of the predecessor, so far as they relate to subsidence damage in relation to which the predecessor continues to be a responsible person, shall continue to be vested in the predecessor, as well as being vested in the successor; and
  - (b) subsection (5) of section 43 above shall not authorise the continuation against the successor of any proceedings under or for the purposes of the 1991 Act which—
    - (i) have been begun, or are deemed to have been begun, against the predecessor; and
    - (ii) may be continued against the predecessor by virtue of paragraph (a) above;but paragraph (b) above shall be without prejudice to any rules of court in accordance with which the successor may be joined as a party to any proceedings in respect of any such rights or liabilities as are mentioned in paragraph (a) above.
- (4) In subsection (1) above the reference to the damaged land and to the damaged property are references, where only part of the land or property has been damaged, to the damaged part of that land or property.

#### **45 Information to be provided by responsible persons.**

- (1) The Secretary of State may by regulations make provision imposing requirements on a person with responsibility for subsidence affecting any land—
- (a) to furnish information, on request, to the owner or occupier of any part of that land;

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- (b) to furnish information to the Authority about any such request for information relating to, or to the possibility of, subsidence damage as is made otherwise than by the owner or occupier of any part of that land;
  - (c) to notify a person who has made a request to which regulations made by virtue of paragraph (b) above apply of its being forwarded to the Authority in pursuance of those regulations; and
  - (d) to ensure that such forms and documents as may be described in the regulations accompany information furnished under the regulations.
- (2) Regulations under this section may contain such provision as the Secretary of State thinks fit with respect to—
- (a) the descriptions of information to which any request made for the purposes of any such regulations is to be confined; and
  - (b) the particulars to be included in, or omitted from, information furnished in accordance with any such regulations.
- (3) In this section the reference to an owner, in relation to any land, shall be construed in accordance with section 52(1) of the 1991 Act (interpretation); and section 50 of the 1991 Act (regulations and orders) shall apply in relation to the power to make regulations under this section as it applies in relation to any power of the Secretary of State to make regulations under that Act.
- (4) In subsection (5)(c) of section 46 of the 1991 Act and subsection (4)(c) of section 47 of that Act (regulations with respect to information which is to accompany notices), for “which is”, in each case, there shall be substituted “, forms and documents which are”.

#### **46 The subsidence adviser.**

- (1) The Secretary of State may by regulations make such provision as he considers necessary or expedient—
- (a) for the appointment of an independent person (“the subsidence adviser”) to carry out, in prescribed cases, the functions specified in subsection (2) below; and
  - (b) for regulating and facilitating the carrying out of those functions by the subsidence adviser.
- (2) The functions referred to in subsection (1) above are—
- (a) the provision of advice and assistance to persons (other than those with responsibility for subsidence affecting land) in connection with the making of complaints, or the taking of any other steps, in relation to any matter arising under the 1991 Act or any question falling within section 47(1) below;
  - (b) the making to persons with responsibility for subsidence affecting land of recommendations as to the manner in which they conduct themselves where such a matter has arisen or any such question falls to be determined;
  - (c) the making of reports dealing generally with the way in which persons with responsibility for subsidence affecting land conduct themselves where such matters arise or such questions fall to be determined; and
  - (d) the making of reports about the carrying out by the subsidence adviser of his functions, whether in particular cases or generally.

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- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may contain provision which, in prescribed cases, requires—
  - (a) the publication by the subsidence adviser of his recommendations and reports; and
  - (b) the giving, to persons concerned with any matter being handled by the subsidence adviser, of opportunities for making representations and objections.
- (4) It shall be the duty of the Authority to furnish the subsidence adviser with all such information and assistance as he may reasonably require in respect of any case in which the Authority is the person with responsibility for subsidence affecting the land in question.
- (5) The Secretary of State may by regulations make provision for—
  - (a) expenses incurred by the subsidence adviser in the carrying out of his functions, and
  - (b) the expense of making payments to or in respect of him by way of remuneration or otherwise,to be met, in whole or in part, by some or all of the persons with responsibility for subsidence affecting land or in such other manner as may be prescribed.
- (6) The provision that may be contained in regulations under this section shall include—
  - (a) provision for any matter to which the regulations relate to be determined by the Authority in such manner, and by reference to such factors, as may be described in the regulations; and
  - (b) provision, where any expenses are to be met by the Authority in accordance with the regulations, for amounts in respect of those expenses to be recoverable by the Authority from other persons with responsibility for subsidence affecting land.
- (7) In this section “prescribed” means prescribed by regulations under this section; and section 50 of the 1991 Act (regulations and orders) shall apply in relation to the powers to make regulations under this section as it applies in relation to any power of the Secretary of State to make regulations under that Act.
- (8) The supplementary, incidental and transitional provision that may be contained, by virtue of subsection (7) above, in regulations under this section may include transitional provision in relation to matters arising under the 1991 Act at times before the restructuring date.

#### **47 Disputes etc. as to subsidence matters.**

- (1) The questions that may be referred to the Lands Tribunal under section 40 of the 1991 Act (disputes generally) shall include—
  - (a) any question as to who is the person with responsibility for subsidence affecting particular land;
  - (b) the question whether there has been a contravention of any subsidence requirement; and
  - (c) the question how any such contravention is to be remedied.
- (2) The Secretary of State may by regulations make such provision as he considers appropriate—

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- (a) for establishing procedures that facilitate the making, by agreement or in accordance with regulations made by virtue of paragraph (b) below, of references to such arbitration as may be prescribed of questions arising under the 1991 Act or falling within subsection (1) above;
  - (b) for enabling any such question to be referred to and determined by arbitration in a case where (but for the regulations) it would fall to be referred to the Lands Tribunal on account of a failure by the person whose interest in it derives from the fact or assertion that he is a person with responsibility for subsidence affecting land to agree to the arbitration or to any other method of determining the question; and
  - (c) for regulating the conduct of arbitrations to which questions are referred in accordance with regulations under this subsection.
- (3) Subsections (2) and (3) of section 40 of the 1991 Act (burden of proof and incidental powers) shall apply for the determination of a question falling within subsection (1) above as they apply for the determination of questions arising under the 1991 Act.
- (4) Subject to subsection (5) below, where a question falling within subsection (1) above is referred to the Lands Tribunal or in accordance with any regulations under subsection (2) above to arbitration, the powers of that Tribunal or of the arbitrator or arbiter shall include (in addition to any powers conferred by virtue of subsection (3) above)—
  - (a) power to have such regard as may appear appropriate to any recommendations or report made by virtue of any regulations under section 46 above;
  - (b) power by order to require a person with responsibility for subsidence affecting land to take such steps for remedying any contravention of a subsidence requirement as that Tribunal, arbitrator or arbiter may direct; and
  - (c) power to award compensation of an amount not exceeding £5,000 in respect of any such inconvenience caused to a person by a contravention of a subsidence requirement as does not fall to be compensated for apart from this paragraph.
- (5) In the application of subsection (4)(b) above to an arbitration in so far as relating to subsidence affecting land in Scotland, the words “by order” shall be disregarded and the reference to requiring the person to take remedial steps shall not be construed as prejudicing any other provision of Scots law as respects enforcement of a decree arbitral.
- (6) The Secretary of State may by order substitute a higher amount for the amount for the time being specified in subsection (4)(c) above.
- (7) The Secretary of State may by regulations make provision—
  - (a) for the expenses of maintaining procedures for the purposes of any regulations under subsection (2) above to be met, in whole or in part, by some or all of the persons with responsibility for subsidence affecting land or in such other manner as may be prescribed; and
  - (b) for one or more of the parties to a reference in accordance with any such regulations to be required to pay, or to make a contribution towards, the costs and other expenses incurred in relation to that reference by any person.
- (8) The provision that may be contained in regulations under this section shall include—
  - (a) provision for any matter to which the regulations relate to be determined by the Authority in such manner, and by reference to such factors, as may be described in the regulations; and

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- (b) provision, where any expenses are to be met by the Authority in accordance with the regulations, for amounts in respect of those expenses to be recoverable by the Authority from other persons with responsibility for subsidence affecting land.
- (9) References in this section to a contravention of a subsidence requirement are references to any contravention by a person with responsibility for subsidence affecting any land of any of the following requirements, that is to say—
- (a) the requirements imposed on such a person by or under the 1991 Act or by any regulations under section 45 above;
  - (b) the requirement imposed by section 43(6) above;
  - (c) the requirement under paragraph 1 of Schedule 6 to this Act to forward a damage notice to the Authority as soon as reasonably practicable after receiving it; and
  - (d) the requirement to comply with an order made by virtue of subsection (4)(b) above (or, as respects the application of that subsection mentioned in subsection (5) above, a decree granted by virtue of subsection (4)(b)) or section 40(3)(a) of the 1991 Act (orders of the Lands Tribunal).
- (10) In this section—
- “the Lands Tribunal”, in relation to Scotland, means the Lands Tribunal for Scotland; and
  - “prescribed” means prescribed by regulations under this section;
- and section 50 of the 1991 Act (regulations and orders) shall apply in relation to the powers to make regulations under this section, and the power to make orders under subsection (6) above, as it applies in relation to any power of the Secretary of State to make regulations or orders under that Act.
- (11) The transitional provision that may be included, by virtue of subsection (10) above, in regulations under this section may include provision in relation to questions arising in relation to times before the restructuring date.

#### **48 Offences with respect to subsidence information.**

- (1) A person shall be guilty of an offence under this section if he engages in any conduct falling within subsection (2) below for the purpose of—
- (a) obtaining for himself or any other person any benefit under the 1991 Act; or
  - (b) facilitating the temporary or permanent avoidance, by himself or any other person, of the whole or any part of—
    - (i) any obligation under that Act;
    - (ii) any other requirement mentioned in section 47(9)(a) to (c) above; or
    - (iii) any liability for contravention of any such obligation or requirement.
- (2) A person engages in conduct falling within this subsection if he—
- (a) furnishes any other person whatever with any information which he knows to be false in a material particular;
  - (b) recklessly furnishes any other person whatever with any information which is false in a material particular; or
  - (c) with intent to deceive, withholds any information from any person whatever.
- (3) A person who is or has been a licensed operator shall be guilty of an offence under this section if he—

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- (a) furnishes the Authority with any subsidence information which he knows to be false in a material particular;
  - (b) recklessly furnishes the Authority with any subsidence information which is false in a material particular; or
  - (c) with intent to deceive, withholds any subsidence information from the Authority.
- (4) In subsection (3) above “subsidence information”, in relation to a person who is or has been a licensed operator, means information relating to the extent of the existing or potential liabilities of that person in respect of subsidence damage.
- (5) Any person who fails to give, in accordance with section 46 or 47 of the 1991 Act (notice to property owners etc. and local authorities), any notice that he is required to give under that section shall be guilty of an offence under this section.
- (6) In any proceedings against a person for an offence by virtue of subsection (5) above it shall be a defence for that person to show that he took such steps as were reasonable to avoid the commission of the offence.
- (7) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

*Rights in relation to former copyhold land*

**49 Rights to work coal in former copyhold land.**

- (1) Where—
- (a) any coal or coal mine is comprised in or lies under land which was formerly copyhold, and
  - (b) a notice (“a relevant notice”) specifying the area in which that land is comprised—
    - (i) has been given in accordance with section 50 below and has come into force, or
    - (ii) has been published, before the restructuring date, in accordance with section 3 of the 1975 Act (which contains provision equivalent to the provision contained in this section),
- the relevant person shall have the like right in relation to that coal or coal mine to carry on coal-mining operations to which section 25 above applies as if all retained interests in that coal or mine subsisting on 31st August 1975 were vested in him, notwithstanding that they are, by virtue of any enactment, in fact vested in another person.
- (2) For the purposes of this section the relevant person, in relation to any relevant notice, is—
- (a) in the case of a notice given in accordance with section 50 below, the person who gave the notice; and
  - (b) in the case of a notice published in accordance with section 3 of the 1975 Act, the Corporation.
- (3) In so far as—



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- (a) a person other than the relevant person is for the time being a licensed operator in relation to the coal or mine which is comprised in, or lies under, the land comprised in the area specified in a relevant notice, and
  - (b) compensation under Part I of Schedule 7 to this Act or, in relation to times before the restructuring date, under section 3(4) of the 1975 Act either—
    - (i) has become due in respect of any retained interest affected by that notice and has been paid in full, or
    - (ii) would have become due in respect of such an interest but for an agreement under paragraph 8 of Schedule 7 to this Act or paragraph 8 of Schedule 2 to the 1975 Act,the person mentioned in paragraph (a) above shall be entitled (instead of the relevant person) to exercise the relevant person’s rights by virtue of subsection (1) above.
- (4) In the case of any licensed operator who is entitled by virtue of this section to carry on any coal-mining operations in relation to any coal or coal mine, the rights comprised in his entitlement shall also be exercisable by any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on.
  - (5) Nothing in this section shall confer any such right as is mentioned in section 9(1)(b) above or be taken to authorise a contravention of section 25(1) above or of any of the conditions of a licence under Part II of this Act; and the rights that are conferred on the Corporation by this section shall have effect subject to any transfer of those rights, in accordance with any restructuring scheme, to any other person.
  - (6) A notice given for the purposes of this section at any time on or after the restructuring date shall come into force when particulars of it are first registered by the Authority in accordance with section 56 below.
  - (7) Schedule 7 to this Act shall have effect with respect to compensation and certain other matters in cases in which a relevant notice is given or has been published.
  - (8) In this section and section 50 below and in Schedule 7 to this Act “retained interest” means any retained interest within the meaning of the <sup>M34</sup>Coal Act 1938.
  - (9) Subject to the preceding provisions of this section, the rights conferred on the Corporation by section 3 of the 1975 Act shall not be exercisable at any time on or after the restructuring date.

#### Marginal Citations

M34 1938 c. 52.

## 50 Notices under section 49.

- (1) This section applies with respect to the giving of a notice for the purposes of section 49 above at any time on or after the restructuring date.
- (2) The only person who may give the notice is a person who is authorised by a licence under Part II of this Act or by virtue of section 25(3) above to carry on coal-mining operations in the area specified in the notice.
- (3) The notice—

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- (a) shall indicate the land to which it relates either by reference to a map or in any other manner which, in the circumstances, is sufficient to identify it;
  - (b) shall identify the person by whom the notice is given and summarise the respects in which the requirements of subsection (2) above are satisfied in relation to that person;
  - (c) shall state that there are proposals to carry on coal-mining operations in relation to any coal or coal mine which may require the exercise in relation to that land of such a right as is mentioned in section 49(1) above; and
  - (d) shall invite the owners of retained interests in any coal or coal mine comprised in or lying under the land in the area to which the notice relates to give notice of their interests, within the period which begins with the date of the first publication of the notice in accordance with subsection (4) below and ends six years after the coming into force of the notice in accordance with section 49(6) above, to the person who gave the notice.
- (4) The notice shall be given by being published—
- (a) in the London Gazette; and
  - (b) at least once in each of two successive weeks, in newspapers circulating in the locality where the land to which the notice relates is situated.

*Additional rights in relation to underground land*

**51 Additional rights in relation to underground land.**

- (1) Subject to the following provisions of this section—
- (a) a licensed operator, or
  - (b) any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on,
- shall be entitled, at any time on or after the restructuring date, to exercise the right conferred by this section in relation to any underground land in the area in which the operator in question is authorised to carry on coal-mining operations.
- (2) Subject to the following provisions of this section and to section 5(6) above, the Authority and the persons authorised by the Authority to exercise its right under this section shall also be entitled, at any time on or after the restructuring date, to exercise the right conferred by this section in relation to any underground land in relation to which there is not for the time being any person who, as a licensed operator, is authorised to carry on any coal-mining operations to which section 25 above applies.
- (3) The right conferred by this section in relation to any underground land is a right, for any of the purposes mentioned in subsection (4) below, to do any of the following, that is to say—
- (a) to enter upon, remove, execute works in, pass through or occupy that land; or
  - (b) to do any acts requisite or convenient for the carrying on of any coal-mining operations.
- (4) The purposes mentioned in subsection (3) above are—
- (a) in relation to a licensed operator or a person authorised to act on his behalf, the carrying on of any coal-mining operations; and

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- (b) in relation to the Authority, any purposes connected with the carrying out of its functions under this Act.
- (5) Nothing in this section shall authorise—
- (a) any interference with the carrying on of any underground operations carried on otherwise than for purposes connected with any coal-mining operations;
  - (b) the withdrawal of support from any land or any interference with the surface of any land;
  - (c) the doing of any act which, apart from this section, would be actionable in England and Wales by virtue of—
    - (i) any liberty, privilege, easement, advantage or other right annexed to any other land,
    - (ii) any restrictive covenant, or
    - (iii) any statutory prohibition or restriction,which adversely affects the land in question;
  - (d) the doing of any act which, apart from this section, would be actionable in Scotland by virtue of—
    - (i) any real burden (including a real burden *ad factum praestandum*), or
    - (ii) any statutory prohibition or restriction,which adversely affects the land in question; or
  - (e) the doing of any act which, apart from this section, would be actionable as a trespass or nuisance and, if done, would be likely to cause actual damage of more than a purely nominal amount.
- (6) For the purposes of subsection (5) 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) Nothing in this section shall confer any such right as is mentioned in section 9(1)(b) above or be taken to authorise a contravention of section 25(1) above or of any of the conditions of a licence under Part II of this Act.
- (8) The rights conferred on the Corporation by virtue of section 15 of the <sup>M35</sup>Coal Act 1938, section 8(1) of the 1946 Act and section 25 of the <sup>M36</sup>Control of Pollution Act 1974 (which made provision similar to that made by this section and extended such provision to waste disposal), or by virtue of any of those provisions, shall not be exercisable at any time on or after the restructuring date.

**Marginal Citations**

**M35** 1938 c. 52.

**M36** 1974 c. 40.

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### *Opencast operations*

#### **52 Opencast operations.**

- (1) The following powers under the <sup>M37</sup>Opencast Coal Act 1958 (“the 1958 Act”) shall not be exercisable at any time after 31st December 1999, that is to say—
- (a) the power to make a compulsory rights order;
  - (b) the power under section 15 of that Act to make an order suspending a right of way; and
  - (c) the power to make an order under section 16 of that Act (orders conferring rights for the purposes of drainage or water supply);
- and the Secretary of State shall not, at any time after that date, give a direction designating any land for the purposes of section 39(2) of that Act (rights of entry) except on an application made to him before that date by the Authority.
- (2) Subject to subsection (1) above and to any transfers in accordance with a restructuring scheme of any rights or liabilities under the 1958 Act, that Act shall have effect on and after the restructuring date with the amendments specified in Schedule 8 to this Act (which, as well as making other minor amendments of that Act, makes the modifications, in relation to the period before 31st December 1999, which are requisite for enabling orders under that Act to be made in favour of persons other than the Corporation).
- (3) Subsection (1) above shall be without prejudice to the effect after 31st December 1999 of anything done under the 1958 Act on or before that date or generally to the operation of that Act in relation to anything so done.

#### **Marginal Citations**

**M37** 1958 c. 69.

### *Protection of the environment*

#### **53 Environmental duties in connection with planning.**

- (1) This section applies in the case of proposals (“coal-mining proposals”) formulated for inclusion in so much of any application for planning permission as relates to any of the following, that is to say—
- (a) the carrying on of any coal-mining operations;
  - (b) the restoration of land used in connection with the carrying on of any coal-mining operations; and
  - (c) the carrying on of any other operations incidental to any coal-mining operations or to the restoration of land which has been so used.
- (2) Where a planning authority consider any coal-mining proposals included in such an application, they shall have regard—
- (a) to the desirability of the preservation of natural beauty, of the conservation of flora and fauna and geological or physiographical features of special interest and of the protection of sites, buildings, structures and objects of architectural, historic or archaeological interest; and

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- (b) to the extent (if any) to which the person by whom the proposals were formulated has complied with subsection (3) below.
- (3) A person who formulates coal-mining proposals shall be required for the purposes of paragraph (b) of subsection (2) above—
- (a) to have regard, in formulating those proposals, to the desirability of the matters mentioned in paragraph (a) of that subsection; and
- (b) to formulate proposals (as part of or in addition to the coal-mining proposals) for the adoption of such measures (if any) as it is reasonably practicable for that person to adopt for mitigating any adverse effect of the development to which the coal-mining proposals relate on the natural beauty of any area or on any such flora, fauna, features, sites, buildings, structures or objects as are so mentioned.
- (4) In this section—
- “development” and “planning permission”—
- (a) in relation to England and Wales, have the same meanings as in the <sup>M38</sup>Town and Country Planning Act 1990; and
- (b) in relation to Scotland, have the same meanings as in the <sup>M39</sup>Town and Country Planning (Scotland) Act 1972; and
- “planning authority” means—
- (a) any local planning authority within the meaning of the <sup>M40</sup>Town and Country Planning Act 1990 or any planning authority within the meaning of Part IX of the <sup>M41</sup>Local Government (Scotland) Act 1973; or
- (b) the Secretary of State in the exercise and performance of such of his powers and duties under those Acts as relate to the grant of planning permission.
- (5) Section 3 of the <sup>M42</sup>Opencast Coal Act 1958 (protection of amenity) shall cease to have effect.

**Modifications etc. (not altering text)**

C2 S. 53: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

**Marginal Citations**

M38 1990 c. 8.

M39 1972 c. 52.

M40 1990 c. 8.

M41 1973 c. 65.

M42 1958 c. 69.

**54 Obligations to restore land affected by coal-mining operations.**

- (1) Subject to subsection (5) below, the power of the Secretary of State by a development order to make the planning permission granted by any such order subject to conditions shall include power, in relation to any permission to win or work any minerals in a coal mine started before 1st July 1948, to make it a condition of that permission that there is compliance with such requirements falling within subsection (2) below as may be specified or described in the order.

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- (2) The requirements which, in relation to any coal mine, fall within this section are such requirements as the Secretary of State thinks fit in relation to—
- (a) the demolition or removal of any buildings, plant, machinery, structures or erections used at any time for or in connection with any previous coal-mining operations at that mine; and
  - (b) the re-instatement, restoration and aftercare of any land used at any time for or in connection with any previous coal-mining operations at that mine.
- (3) In subsection (2) above “previous coal-mining operations”, in relation to the requirements imposed by any condition, means—
- (a) any coal-mining operations carried on by any person before 1st July 1948; or
  - (b) any coal-mining operations which—
    - (i) were carried on by any person at any time on or after that date but before the coming into force of that condition; and
    - (ii) were operations constituting development for which planning permission was granted by a development order or any corresponding order made, or having effect as if made, under any enactment then in force;
- and references in this section to the use of anything in connection with any such operations shall include references to its use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations.
- (4) A condition contained in a development order by virtue of this section may provide—
- (a) for the requirements imposed by that condition to include a requirement framed by reference to the opinion or approval of the relevant planning authority; and
  - (b) for that condition to be capable of being modified by agreement with the relevant planning authority.
- (5) The Secretary of State’s powers under this section to modify a development order shall not be exercised at any time after the end of the period of six months beginning with the restructuring date, except for purposes which do not, in relation to any coal mine, include any of the following, that is to say—
- (a) imposing a requirement which had not previously been imposed in relation to that coal mine;
  - (b) making a requirement which had been imposed in relation to that coal mine more onerous; and
  - (c) making provision by reference to any person’s opinion or approval so as to confer powers that did not exist before and might be exercised for a purpose falling within paragraph (a) or (b) above;
- but nothing in this subsection shall be taken as affecting the continuing effect after the end of that period of any modification made after the passing of this Act and before the end of that period.
- (6) Expressions used in this section and in the <sup>M43</sup>Town and Country Planning Act 1990 or <sup>F10</sup>the Town and Country Planning (Scotland) Act 1997 shall—
- (a) in the application of this section to England and Wales, have the same meanings in this section as in that Act of 1990; and
  - (b) in the application of this section to Scotland, have the same meanings in this section as in <sup>F10</sup>that Act of 1997].

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- (7) In this section “relevant planning authority”—
- (a) in relation to England and Wales, means the mineral planning authority within the meaning of the <sup>M44</sup>Town and Country Planning Act 1990; and
  - (b) in relation to Scotland, means the planning authority within the meaning of Part IX of the <sup>M45</sup>Local Government (Scotland) Act 1973.

#### Textual Amendments

**F10** Words in s. 54(6) substituted (27.5.1997) by 1997 c. 11, s. 4, **Sch. 2 para. 56(1)**

#### Modifications etc. (not altering text)

**C3** S. 54: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

#### Marginal Citations

**M43** 1990 c. 8.

**M44** 1990 c. 8.

**M45** 1973 c. 65.

### *Health and safety regulations as to rescue service*

## **55 Health and safety regulations as to rescue service.**

- (1) The power to make health and safety regulations shall include power, in relation to any requirement of any such regulations that a person carrying on coal-mining operations is to be a participant in a mine rescue scheme approved by the Secretary of State, to provide—
- (a) for approval to be given to or withdrawn from any scheme only after such consultation as may be specified or described in the regulations; and
  - (b) for the approved schemes to be confined to those which appear to the Secretary of State to be such as secure that it is reasonably practicable for every licensed operator who is required to do so to participate, on reasonable terms, in an approved scheme.
- (2) In subsection (1) above the references to a mine rescue scheme are references to any scheme or other arrangements the participants in which are entitled, in an emergency, to the services of persons with the expertise and equipment required for rescuing individuals from underground.
- (3) In subsection (1) above “health and safety regulations” means regulations under section 15 of the <sup>M46</sup>Health and Safety at Work etc. Act 1974; and the preceding provisions of this section shall be without prejudice to the generality of any provisions of that Act as to the matters that may be included in any such regulations.

#### Marginal Citations

**M46** 1974 c. 37.

*Status: Point in time view as at 22/07/2004.*

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### *Registration of rights*

#### **56 Registration of rights.**

- (1) The Authority shall establish and maintain a register in which it shall enter particulars of—
- (a) every notice under section 38 above a copy of which is sent to the Authority by the person giving it;
  - (b) every notice published under section 2 of the 1975 Act (notices conferring right for Corporation to withdraw support) a copy of which has been supplied to the Authority by the Corporation;
  - (c) every public notice under paragraph 6(2) of Schedule 2 to the <sup>M47</sup>Coal Act 1938 (withdrawal of support) a copy of which has been supplied to the Authority by the Corporation;
  - (d) every notice given by the Authority under section 41 above;
  - (e) every notice given for the purposes of section 49 above a copy of which is sent to the Authority by the person giving it;
  - (f) every notice published under section 3 of the 1975 Act (notices conferring right for the Corporation to work coal in copyhold land) a copy of which has been supplied to the Authority by the Corporation;
  - (g) every notice sent to the Authority under paragraph 9 of Schedule 7 to this Act and so much of any information known to the Authority as—
    - (i) relates to any compensation paid under section 3(4) of the 1975 Act or to any agreement for the purposes of paragraph 8 of Schedule 2 to the 1975 Act, and
    - (ii) is information which, in the case of any compensation or agreement under or for the purposes of Part I of Schedule 7 to this Act, would fall to be included in such a notice;
  - (h) the following, that is to say—
    - (i) every compulsory rights order under the <sup>M48</sup>Opencast Coal Act 1958,
    - (ii) every order under section 15 or 16 of that Act (rights of way, drainage and water supply), and
    - (iii) every designation under section 39 of that Act,
 in so far as it is an order or designation made by the Authority or an order or designation of which a copy has been supplied to the Authority by the Corporation;
  - (i) every confirmation of an order mentioned in paragraph (h)(i) or (ii) above and every notice or other document for the purposes of that Act of 1958 which is, or a copy of which is, sent to the Authority under that Act or a copy of which has been supplied to the Authority by the Corporation; and
  - (j) every agreement entered into with a local planning authority (within the meaning of that Act of 1958) for the purposes of section 15(5) of that Act (agreements as to the restoration of a right of way).
- (2) Where a copy of any notice under section 38 above is sent to the Authority more than fourteen days before the end of the period of three months mentioned in subsection (3) (a) of that section, the duty of the Authority, subject to subsection (3) below, to enter particulars of that notice in the register maintained under this section shall be discharged before the end of that period of three months.



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- (3) The Authority shall not enter in the register maintained under this section any particulars of—
- (a) any notice under section 38 above, or
  - (b) any notice given for the purposes of section 49 above on or after the restructuring date,
- unless it is satisfied that the notice has been properly given in accordance with the requirements of this Act and, in the case of a notice under section 38 above, that the requirements of section 39(4) above have been complied with in relation to that notice.
- (4) It shall be the duty of the Authority to preserve a copy of every document particulars of which are, by virtue of subsection (1) above, for the time being entered in the register maintained under this section.
- (5) If any person furnishes the Authority with any information for the purposes of this section which he knows to be false in a material particular or recklessly furnishes the Authority with any information for those purposes which is false in a material particular, he shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) References in this section to the supply to the Authority by the Corporation of a copy of any document include references to the transfer in accordance with a restructuring scheme of possession of the document itself or of any copy of that document.

#### Marginal Citations

M47 1938 c. 52.

M48 1958 c. 69.

## PART IV

### GENERAL AND SUPPLEMENTAL

#### *Information provisions*

#### **57 Public access to information held by the Authority.**

- (1) This section applies to the information contained in any register maintained by the Authority under section 35 or 56 above and to any of the following information which is for the time being in the possession of the Authority, that is to say—
- (a) information about the geological or physiographical features or characteristics of any land in which any unworked coal or any coal mine is situated or of any other land;
  - (b) information about the identity of the persons in whom interests and rights in or in relation to any unworked coal or any coal mine have been vested;
  - (c) the contents of the plans of any coal mines or coal workings;
  - (d) any other information about proposals for the carrying on by any person of any coal-mining operations;

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- (e) information about any subsidence or subsidence damage or about claims made under the 1991 Act; and
  - (f) information about such other matters as the Secretary of State may by regulations prescribe for the purposes of this section.
- (2) Subject to subsections (3) and (4) below, it shall be the duty of the Authority to establish and maintain arrangements under which every person is entitled, in such cases, on payment to the Authority of such fee and subject to such other conditions as the Authority may consider appropriate—
- (a) to be furnished with any information to which this section applies;
  - (b) to have the contents of so much of the records maintained by the Authority as contains any information to which this section applies made available to him, at such office of the Authority as it may determine, for inspection at such times as may be reasonable; and
  - (c) to make or be supplied with copies of, or of extracts from, so much of the records maintained by the Authority as contains any information to which this section applies.
- (3) Subject to subsection (5) below, nothing in this section shall require or authorise the disclosure by the Authority of any information which—
- (a) relates to the affairs of an individual or specifically to the affairs of any body of persons (whether corporate or unincorporate), including the Authority itself, and
  - (b) is not contained in a register maintained under section 35 or 56 above, if the disclosure of that information would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or, as the case may be, of that body.
- (4) Subject to subsection (5) below, nothing in this section shall require or authorise the disclosure by the Authority, without the consent of the person to whom the Authority owes the obligation of confidence, of any information which—
- (a) has been furnished to the Authority—
    - (i) in pursuance of the provisions of a licence under Part II of this Act;
    - (ii) in pursuance of any provisions of an agreement entered into in connection with, or with any proposals for, the carrying on of any activities in the course of any exploration for coal or of any activities for which a licence under [F11section 3 of the Petroleum Act 1998] is required; or
    - (iii) for the purposes of any application to the Authority for the grant of a licence under Part II of this Act, for the making of such an agreement or for the transfer or creation of any interests or rights in or in relation to any land;
  - and
  - (b) under the provisions of the licence under Part II of this Act, of that agreement or of any undertaking given by the Authority to the applicant for the purposes of that application, is to be treated as subject to an obligation of confidence owed by the Authority to any other person.
- (5) The information that is to be excluded by virtue of subsections (3) and (4) above from the information which is to be made available to any person in pursuance of arrangements under this section shall not include any information of a description that appears to the Authority to comprise information relating to matters which are or may

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be relevant to the safety of members of the public or of any particular individual or individuals other than the person whose consent is required for its disclosure.

- (6) For the purposes of this section it shall be the duty of the Authority to maintain such records as it considers appropriate of any information which comes into its possession and is information to which this section applies.
- (7) The power to make regulations for the purposes of this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “records” includes registers, maps, plans and accounts, as well as computer records and other records kept otherwise than in documentary form.

#### Textual Amendments

**F11** Words in s. 57(4)(a)(ii) substituted (15.2.1999) by 1998 c. 17, ss. 50, 52(4), Sch. 4 para. 38(4); S.I. 1999/161, art. 2(1)

## 58 Liability for inaccurate information furnished to the Authority.

- (1) This section applies where the conditions of a licence under Part II of this Act contain provision stating—
  - (a) that information of a specified description which is furnished to the Authority in pursuance of the conditions of the licence may be disclosed by the Authority for specified purposes in pursuance of arrangements under section 57 above; and
  - (b) that any information of that description that is disclosed by the Authority for any of those purposes is to be treated, for the purposes of this section, as information whose accuracy the operator has undertaken to secure.
- (2) The licensed operator shall owe a duty to the Authority and to every person likely to be affected by any inaccuracy in information disclosed by the Authority for any of the specified purposes to exercise all due diligence to secure—
  - (a) that the Authority is furnished, in accordance with the conditions of the licence, with all the information of the specified descriptions which the operator is required by those conditions to furnish to the Authority; and
  - (b) that the information of those descriptions which is furnished by the operator to the Authority is accurate in every material particular.
- (3) Where a duty is owed by any person to another person by virtue of subsection (2) above, any breach of that duty which causes that other person to sustain loss or damage shall be actionable against the person in breach at the suit or instance of the other person.
- (4) A person shall not be liable for any breach of a duty mentioned in subsection (2) above except—
  - (a) in respect of a disclosure of information made by the Authority for a specified purpose; and
  - (b) to the Authority or the person to whom the disclosure was made.
- (5) This section shall be without prejudice to the liability of any person for breach of the duty to comply with an enforcement order (within the meaning of Part II of this Act).

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## 59 Information to be kept confidential by the Authority.

- (1) Subject to the following provisions of this section, it shall be the duty of the Authority to establish and maintain such arrangements as it considers best calculated to secure that information which—
- (a) is in the Authority’s possession in consequence of either the carrying out of any of its functions or the transfer to the Authority, in accordance with a restructuring scheme, of any records, and
  - (b) relates to the affairs of any individual or to any particular business, is not, during the lifetime of that individual or so long as that business continues to be carried on, disclosed to any person without the consent of that individual or, as the case may be, of the person for the time being carrying on that business.
- (2) Nothing in subsection (1) above shall authorise or require the making of arrangements which prevent the disclosure of information—
- (a) for the purpose of facilitating the carrying out by the Secretary of State, the Treasury or the Authority of any of his, their or, as the case may be, its functions under this Act;
  - (b) in pursuance of arrangements made under section 57 above;
  - (c) for the purpose of facilitating the carrying out by any relevant authority of any of the functions in relation to which it is such an authority;
  - (d) in connection with the investigation of any criminal offence or for the purposes of criminal proceedings;
  - (e) for the purposes of any civil proceedings brought under this Act or any relevant enactment, of any proceedings before the Lands Tribunal or the Lands Tribunal for Scotland under the 1991 Act or of any arbitration for which provision is made by regulations under section 47(2) above; or
  - (f) in pursuance of any Community obligation.
- (3) For the purposes of this section—
- (a) every Minister of the Crown and local weights and measures authority in Great Britain is a relevant authority in relation to his or, as the case may be, their functions under any relevant enactment;
  - <sup>F12</sup>(b) the Secretary of State, the Treasury and the Financial Services Authority are relevant authorities in relation to their functions under the Financial Services and Markets Act 2000 and the enactments relating to companies and insolvency;]
  - (c) an inspector appointed under the enactments relating to companies, an official receiver and any recognised professional body for the purposes of section 391 of the <sup>M49</sup>Insolvency Act 1986 are relevant authorities in relation to their functions as such;
  - (d) every enforcing authority, within the meaning of Part I of the <sup>M50</sup>Health and Safety at Work etc. Act 1974, is a relevant authority in relation to its functions under any relevant statutory provision, within the meaning of that Act;
  - <sup>F13</sup>(dd) the Civil Aviation Authority is a relevant authority in relation to its functions under Part I of the Transport Act 2000;]and
  - (e) the following are relevant authorities in relation to all of their functions, that is to say—
    - (i) the Comptroller and Auditor General;

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- (ii) the Health and Safety Executive and the Health and Safety Commission;
  - (iii) the National Rivers Authority;
  - (iv) the [<sup>F14</sup>Competition Commission];
  - (v) [<sup>F15</sup>the Office of Fair Trading] and the Director General of Electricity Supply;
  - [<sup>F16</sup>(vi) the Scottish Environment Protection Agency.]
- (4) In subsections (2) and (3) above “relevant enactment” means any of the following, that is to say—
- (a) the <sup>M51</sup>Trade Descriptions Act 1968;
  - (b) the <sup>M52</sup>Fair Trading Act 1973;
  - (c) the Consumer Credit Act 1974;
  - (d) Part II of the <sup>M53</sup>Control of Pollution Act 1974;
  - <sup>F17</sup>(e) .....
  - <sup>F17</sup>(f) .....
  - (g) the <sup>M54</sup>Estate Agents Act 1979;
  - (h) the <sup>M55</sup>Competition Act 1980;
  - (i) the <sup>M56</sup>Consumer Protection Act 1987;
  - (j) the <sup>M57</sup>Electricity Act 1989;
  - (k) the <sup>M58</sup>Water Resources Act 1991;
  - (l) the <sup>M59</sup>Land Drainage Act 1991;
  - (m) any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities dated 10th September 1984 (No. 84/450/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising;
  - [<sup>F18</sup>(n) the Competition Act 1998;]
  - [<sup>F19</sup>(o) the Enterprise Act 2002;]
  - [<sup>F20</sup>(p) the Water Act 2003.]
- (5) Nothing in any arrangements under this section shall—
- (a) limit the matters which may be contained in a report under section 60 below or section 49 of the 1991 Act (report on operation of that Act); or
  - (b) restrict or prohibit the disclosure of any information which has already been made public—
    - (i) as part of such a report;
    - (ii) in pursuance of any arrangements under section 57 above;
    - (iii) under any provision of section 31 or 32 above or Part III of this Act requiring the publication of any notice or other matter; or
    - (iv) in the exercise of any power or the performance of any duty which is conferred or imposed on any person apart from this Act.
- (6) The Secretary of State may by order made by statutory instrument modify subsections (2) to (5) above so as to add to or restrict the descriptions of disclosures which are to be excluded from any prohibition contained in arrangements under subsection (1) above; and the power to make an order under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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- (7) Subject to subsection (8) below, where any licence under Part II of this Act or any such undertaking as is mentioned in section 57(4)(b) above contains provision for any information furnished to the Authority to be treated as subject to such an obligation of confidence as restricts the disclosure or use of that information without the consent of the person to whom that obligation is to be owed—
- (a) the requirement to comply with that obligation shall be a duty owed by the Authority to that person; and
  - (b) any such disclosure or use, in contravention of that provision, of any information as causes the person to whom it is owed to sustain loss or damage shall be actionable against the Authority at the suit or instance of that person.
- (8) Subsection (7) above shall not apply, except in so far as the provisions of the licence or undertaking contain express provision to the contrary, to any disclosure of information which is for the time being excluded by virtue of subsections (2) to (5) above from the prohibition contained in arrangements under subsection (1) above.
- (9) In this section “records” has the same meaning as in section 57 above.

#### Textual Amendments

- F12** S. 59(3)(b) substituted (3.7.2002) by [S.I. 2002/1555](#), [art. 23](#)
- F13** S. 59(3)(dd) inserted (21.12.2001) by [S.I. 2001/4050](#), [art. 2](#), [Sch. Pt. IV para. 24](#)
- F14** Words in s. 59(3)(e)(iv) substituted (1.4.1999) by [S.I. 1999/506](#), [art. 34](#)
- F15** Words in s. 59(3)(e)(v) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), [s. 279](#), [Sch. 25 para. 32\(2\)\(a\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch. \(with art. 3\)](#) (as amended (20.7.2007) by [S.I. 2007/1846](#), [reg. 3\(2\)](#), [Sch.](#))
- F16** S. 59(3)(e)(vi) substituted (1.4.1996) by [S.I. 1996/973](#), [reg. 16](#).
- F17** S. 59(4)(e)(f) repealed (1.3.2000) by [1998 c. 41](#), [s. 74\(1\)\(3\)](#), [Sch. 12 para. 18\(a\)](#), [Sch. 14 Pt. I](#); [S.I. 2000/344](#), [art. 2](#), [Sch.](#)
- F18** S. 59(4)(n) inserted (11.1.1999) by [1998 c. 41](#), [s. 74\(1\)](#), [Sch. 12](#), [para. 18\(b\)](#); [S.I. 1998/3166](#), [art. 2](#), [Sch.](#)
- F19** S. 59(4)(o) inserted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), [s. 279](#), [Sch. 25 para. 32\(2\)\(b\)](#); [S.I. 2003/766](#), [art. 2](#), [Sch. \(with art. 3\)](#) (as amended (20.7.2007) by [S.I. 2007/1846](#), [reg. 3\(2\)](#), [Sch.](#))
- F20** S. 59(4)(p) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), [s. 105\(3\)](#), [Sch. 7 para. 31](#); [S.I. 2004/641](#), [art. 3\(y\)](#), [Sch. 2 \(with Sch. 3 para. 7\)](#)

#### Modifications etc. (not altering text)

- C4** S. 59(2): disclosure powers extended (14.12.2001) by [2001 c. 24](#), [s. 17](#), [Sch. 4 Pt. I para. 35](#)

#### Marginal Citations

- M49** 1986 c. 45.
- M50** 1974 c. 37.
- M51** 1968 c. 29.
- M52** 1973 c. 41.
- M53** 1974 c. 40.
- M54** 1979 c. 38.
- M55** 1980 c. 21.
- M56** 1987 c. 43.
- M57** 1989 c. 29.
- M58** 1991 c. 57.
- M59** 1991 c. 59.

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## **60 Annual report of the Authority.**

- (1) As soon as reasonably practicable after the end of each financial year the Authority shall prepare a report on its activities during that year and shall send a copy of that report to the Secretary of State.
- (2) The Authority's annual report—
  - (a) shall set out—
    - (i) all such directions under section 6 above, this section or Part II of Schedule 1 to this Act, and
    - (ii) all such determinations under that Part of that Schedule, as have been given to it or made during the financial year to which the report relates;
  - (b) shall incorporate the statement of accounts prepared by the Authority in respect of the accounting year ending with the financial year in question, together with a copy of the report on those accounts which is required to be laid before Parliament under paragraph 15(4) of Schedule 1 to this Act; and
  - (c) shall otherwise be in such form, and contain such information, as may be specified in a direction given to it by the Secretary of State.
- (3) The information contained in the Authority's annual report shall not include any such information as falls to be excluded by virtue of subsection (3) or (4) of section 57 above from the information which is to be made available in pursuance of arrangements under that section.
- (4) Nothing in subsection (3) above shall prevent the inclusion in the Authority's annual report of any information which has already been made public by virtue of any provision of this Act or of any other enactment.
- (5) In consequence of section 49 of the 1991 Act (report on operation of that Act), it shall not be necessary for the Authority's annual report to include any report on the operation of that Act.
- (6) As soon as reasonably practicable after he has received the Authority's annual report for any financial year the Secretary of State shall lay a copy of it before each House of Parliament.
- (7) It shall be the duty of the Authority—
  - (a) to arrange for copies of every annual report of the Authority to be published in such manner as it considers appropriate for securing that the information contained in it is available to the persons likely to be interested in it; and
  - (b) to send the Secretary of State such number of copies of the published report as he may require.

## **61 Report on financial assistance for coal-mining museums.**

As soon as reasonably practicable after the end of the period of three years beginning with the restructuring date, the Secretary of State shall prepare and lay before Parliament a report setting out particulars of—

- (a) the financial assistance provided during that period to coal-mining museums, so far as it has involved the making of payments for that purpose to any person by the Secretary of State;

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- (b) the manner in which the provision of that financial assistance has been administered; and
- (c) the use to which that financial assistance has been put by the coal-mining museums which have received it.

### *Supplemental*

## **62 Financial provisions.**

There shall be paid out of money provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State or the Treasury in consequence of the provisions of this Act;
- (b) any sums required by any Minister of the Crown or Government department for meeting obligations arising in consequence of that Minister or department becoming entitled or subject, in accordance with any restructuring scheme, to any property, rights or liabilities; and
- (c) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

## **63 Provisions relating to the service of documents.**

(1) Any document required or authorised by virtue of this Act to be served on any person may be served—

- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address;
- (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business;

and any document required or authorised by this Act to be served on the Authority or the Corporation may be served by leaving it at, or sending it by post to, any office of the Authority or, as the case may be, of the Corporation.

(2) For the purposes of this section and section 7 of the <sup>M60</sup>Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body; and
- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.

(3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom, other than his proper address (as determined in accordance with subsection (2) above), as one at which he or



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someone on his behalf will accept documents of the same description as that document, that address shall also be treated as a proper address of that person for the purposes of this section and for the purposes of the said section 7 in its application to this section.

- (4) References in this section to the service of a document on any person include references to the giving, making or sending to that person of any notice, direction, claim or request which is in writing.
- (5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

**Modifications etc. (not altering text)**

**C5** S. 63 applied (31.10.1994) by 1994 c. 45, s. 51 (as substituted (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 41(3)).

**Marginal Citations**

**M60** 1978 c. 30.

## 64 Offences by bodies corporate etc.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where any partnership in Scotland or any unincorporated association in Scotland which is not a partnership is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any partner in the partnership or, as the case may be, any person concerned in the management or control of the association, or
  - (b) any person purporting to act in any such capacity,then he, as well as the partnership or association, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## 65 Interpretation.

- (1) In this Act, except in so far as the context otherwise requires—
  - “the 1946 Act” means the <sup>M61</sup>Coal Industry Nationalisation Act 1946;
  - “the 1975 Act” means the <sup>M62</sup>Coal Industry Act 1975;
  - “the 1991 Act” means the <sup>M63</sup>Coal Mining Subsidence Act 1991;
  - “the Authority” means the Coal Authority;
  - “business” includes any trade or profession;
  - “coal” means bituminous coal, cannel coal and anthracite;

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“coal mine” includes—

- (a) any space excavated underground for the purposes of coal-mining operations and any shaft or adit made for those purposes,
- (b) any space occupied by unworked coal, and
- (c) a coal quarry and opencast workings of coal;

“coal-mining operations” includes—

- (a) searching for coal and boring for it,
- (b) winning, working and getting it (whether underground or in the course of opencast operations),
- (c) bringing underground coal to the surface, treating coal and rendering it saleable,
- (d) treating coal in the strata for the purpose of winning any product of coal and winning, working or getting any product of coal resulting from such treatment, and
- (e) depositing spoil from any activities carried on in the course of any coal-mining operations and draining coal mines,

and an operation carried on in relation to minerals other than coal is a coal-mining operation in so far as it is carried on in relation to those minerals as part of, or is ancillary to, operations carried on in relation to coal;

“company” has the same meaning as in the <sup>M64</sup>Companies Act 1985;

“contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;

“the Corporation” means the British Coal Corporation or, in relation to times before the commencement of section 1 of the <sup>M65</sup>Coal Industry Act 1987, the National Coal Board;

“debenture” includes debenture stock;

“the dissolution date” means the date appointed under section 23 above for the dissolution of the Corporation;

“financial year” means the twelve months ending with 31st March;

“holder”, in relation to a licence under Part II of this Act, means the following person (whether or not the authorisation contained in the licence remains in force), that is to say—

- (a) in a case where there has been no such transfer in relation to that licence as is mentioned in section 27(5) above, the person to whom the licence was granted, and
- (b) in any other case, the person to whom the rights and obligations of the holder of that licence were last transferred;

“interest”, in relation to land, includes estate;

“liability”, in relation to the transfer of liabilities from one person to another or to the modification of any liability, does not include any criminal liability;

“licensed operator” means any person who is for the time being either—

- (a) authorised by a licence under Part II of this Act to carry on coal-mining operations to which section 25 above applies, or
- (b) authorised by virtue of subsection (3) of that section to carry on any such operations;

“modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

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“the restructuring date” means the date appointed as that date under section 7(1) above;

“restructuring scheme” means a scheme under section 12 above;

“securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“shares” includes stock;

“subordinate legislation” has the same meaning as in the <sup>M66</sup>Interpretation Act 1978;

“subsidence damage” has the same meaning as in the 1991 Act;

“subsidiary” and “wholly-owned subsidiary” have the meanings given by section 736 of the <sup>M67</sup>Companies Act 1985;

“successor company” means any company which, at a time when it is wholly owned by the Crown, becomes entitled or subject, in accordance with any restructuring scheme, to any property, rights or liabilities;

“undertaking”, in relation to the Corporation, includes the undertakings of its wholly-owned subsidiaries.

- (2) References in this Act to the treatment of coal in the strata shall be taken not to include references to any operations which—
- (a) are carried on in relation to coal in or to which any oil or gas that exists in its natural condition in the strata is absorbed or adsorbed; and
  - (b) are so carried on wholly for the purpose of winning or getting that oil or gas; and in this subsection “oil or gas” means oil or gas within the meaning of section 9 above.
- (3) References in this Act to the creation, in favour of any person, of an interest in property include references to the vesting in that person of a freehold or leasehold interest in property.
- (4) For the purposes of this Act a company shall be regarded as wholly owned by the Crown at any time if it is—
- (a) a company limited by shares in which there are at that time no issued shares held otherwise than by, or by a nominee of, the Treasury, the Secretary of State or any other company wholly owned by the Crown; or
  - (b) a company limited by guarantee of which no person other than the Treasury or the Secretary of State, or a nominee of the Treasury or the Secretary of State, is a member.

#### Marginal Citations

M61 1946 c. 59.

M62 1975 c. 56.

M63 1991 c. 45.

M64 1985 c. 6.

M65 1987 c. 3.

M66 1978 c. 30.

M67 1985 c. 6.

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## **66 Crown application.**

- (1) This Act shall have effect in relation to any land or other property in which there is a Crown or Duchy interest as it has effect in relation to land or other property in which there is no such interest.
- (2) So much of this Act as contains provision for the modification of the rights or liabilities to which any person is or may become entitled or subject shall bind the Crown.
- (3) Nothing in this section shall be taken as requiring a licence under Part II of this Act for the carrying on by or on behalf of the Crown of any coal-mining operations.
- (4) Where this Act modifies any enactment in relation to which provision is made for its application to the Crown that differs from the provision made by this section, that provision, and not this section, shall have effect in relation to the modification.
- (5) In this section “Crown or Duchy interest” means any interest belonging to Her Majesty or to the Duchy of Cornwall or any interest belonging to a Government department or held in trust for the purposes of a Government department.

## **67 Amendments, transitional provisions, savings and repeals.**

- (1) The enactments mentioned in Schedule 9 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act).
- (2) The Secretary of State may by order made by statutory instrument make such consequential modifications of any provision contained in any Act passed before the relevant commencement date, or in any subordinate legislation made before that date, as appear to him necessary or expedient—
  - (a) in respect of any reference in that Act or subordinate legislation to the Corporation;
  - (b) in respect of any reference (in whatever terms) in that Act or subordinate legislation to a person carrying on coal-mining operations or to such operations;
  - (c) in respect of any reference in that Act or subordinate legislation to any enactment repealed or amended by this Act; or
  - (d) in the case of a provision contained in subordinate legislation, in respect of any other inconsistency between that subordinate legislation and this Act;
 and in this subsection “the relevant commencement date”, in relation to any modifications, means the date of the coming into force of the provisions of this Act on which they are consequential.
- (3) If it appears to the Secretary of State to be appropriate to do so—
  - (a) for the purposes of, or in consequence of, the coming into force of any enactment contained in this Act, or
  - (b) in consequence of the effect or operation at any time after the restructuring date of any such enactment or of anything done under any such enactment,
 he may by order made by statutory instrument repeal, amend or re-enact (with or without modifications) any provision contained in any local Act (whenever passed), including, in the case of an order by virtue of paragraph (b) above, a provision amended by virtue of subsection (2) or paragraph (a) above.

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- (4) The power of the Secretary of State to make provision by an order under subsection (3) above shall include power—
  - (a) to provide for general modifications of local Acts of a specified description and for modifications making different provision for different cases;
  - (b) to make such supplemental, incidental, consequential and transitional provision as the Secretary of State considers appropriate in relation to any other provisions of such an order; and
  - (c) in the case of an order made after the restructuring date, to require provision contained in the order to be treated as if it came into force on that date.
- (5) An order shall not be made under this section for modifying any public general Act unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing an order under this section a draft of which is not required to have been laid before Parliament under subsection (5) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The transitional provisions and savings contained in Schedule 10 to this Act shall have effect; and those provisions and savings shall be without prejudice to sections 16 and 17 of the <sup>M68</sup>Interpretation Act 1978 (effect of repeals).
- (8) The enactments mentioned in Schedule 11 to this Act (which include some enactments which are spent) are hereby repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

- I3** S. 67(2)-(6) in force and s. 67(8) in force for specified purposes at Royal Assent, see s. 68(6)(e)
- I4** S. 67(7) in force and 67(1)(8) in force for specified purposes at 31.10.1994 by [S.I. 1994/2552, art. 2, Sch. 1](#), Appendix (with art. 4)
- I5** S. 67(1)(8) in force for specified purposes at 1.11.1994 by [S.I. 1994/2552, art. 3, Sch. 2](#), Appendix
- I6** S. 67(1)(8) in force for specified purposes at 31.10.1994 ("the restructuring date"), see ss. 7, 68(2) and [S.I. 1994/2553, art. 2](#)
- I7** S. 67(8) in force for specified purposes at 24.12.1994 by [S.I. 1994/3063, art. 2, Sch.](#)
- I8** S. 67(8) in force for specified purposes at 1.3.1995 by [S.I. 1995/273, art. 2, Sch.](#)
- I9** S. 67(1)(8) in force for specified purposes at 27.3.2004 ("the dissolution date"), see s. 23(2) and S.I. 2004/144, art. 3
- I10** S. 67(8) in force at 27.3.2004 for specified purposes by [S.I. 2004/144, art. 2\(a\), Sch.](#)

#### Marginal Citations

- M68** 1978 c. 30.

## 68 Short title, commencement and extent.

- (1) This Act may be cited as the Coal Industry Act 1994.
- (2) The following provisions of this Act shall come into force on the restructuring date, that is to say—
  - (a) sections 10, 11, 18 and 23;
  - (b) sections 31 to 34 and section 36;
  - (c) sections 38 to 44 and 48 to 53, section 55 and Schedules 6, 7 and 8;

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- (d) Schedule 9, except (subject to the power to appoint the restructuring date under subsection (4) below) for so much of that Schedule as relates to—
- (i) the <sup>M69</sup>Public Health Act 1961,
  - (ii) the <sup>M70</sup>Licensing Act 1964,
  - <sup>F21</sup>(iii) .....
  - (iv) the <sup>M71</sup>Gaming Act 1968,
  - <sup>F22</sup>(v) .....
  - (vi) the <sup>M72</sup>Overseas Development and Co-operation Act 1980,
  - (vii) the <sup>M73</sup>National Audit Act 1983,
  - (viii) the <sup>M74</sup>Road Traffic Regulation Act 1984,
  - (ix) sections 315(4)(b) and 317 of the <sup>M75</sup>Town and Country Planning Act 1990, and
  - (x) the <sup>M76</sup>Leasehold Reform, Housing and Urban Development Act 1993;
- (e) Part II of Schedule 11; and
- (f) subsections (1) and (8) of section 67 so far as they relate to provisions coming into force on that date by virtue of paragraphs (d) and (e) above.
- (3) The following provisions of this Act shall come into force on the dissolution date, that is to say—
- (a) Schedule 9, so far as it relates to—
    - (i) the <sup>M77</sup>Public Health Act 1961,
    - (ii) the <sup>M78</sup>Overseas Development and Co-operation Act 1980,
    - (iii) the <sup>M79</sup>National Audit Act 1983,
    - (iv) the <sup>M80</sup>Road Traffic Regulation Act 1984, and
    - (v) the <sup>M81</sup>Leasehold Reform, Housing and Urban Development Act 1993;
  - (b) Part IV of Schedule 11; and
  - (c) subsections (1) and (8) of section 67 so far as they relate to provisions coming into force on that date by virtue of paragraphs (a) and (b) above.
- (4) Apart from the provisions to which subsections (2) and (3) above apply and the provisions specified in subsection (6) below (which come into force on the passing of this Act), this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (5) An order under subsection (4) above may—
- (a) appoint different days for different provisions and for different purposes; and
  - (b) make any such transitional provision (including provision modifying for transitional purposes any of the provisions of this Act or of any enactment amended or repealed by this Act) as the Secretary of State considers appropriate in connection with the bringing into force of any provision of this Act;
- but, where an order under that subsection makes any such provision as is mentioned in paragraph (b) above, the statutory instrument containing the order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The provisions of this Act mentioned in subsection (4) above are this section and—
- (a) sections 7 to 9;
  - (b) sections 12 to 14 and 17 and Schedule 2;

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- (c) section 54;
  - (d) sections 62 to 66;
  - (e) section 67(2) to (6); and
  - (f) Part I of Schedule 11 to this Act and subsection (8) of section 67 so far as it relates to that Part of that Schedule.
- (7) The following provisions of this Act do not extend to Scotland, that is to say—
- [<sup>F23</sup>(za) sections 4A to 4C and Schedules 1A and 1B;]
  - (a) sections 49 and 50 and Schedule 7; and
  - (b) so much of Schedules 9 and 11 as relates to enactments extending to England and Wales only.
- (8) This Act, except for—
- (a) sections 7 to 9, 12 and 13 and Schedule 2,
  - (b) sections 20 and 21 and Schedule 4,
  - (c) so much of Schedule 1 as amends the <sup>M82</sup>Parliamentary Commissioner Act 1967, the <sup>M83</sup>House of Commons Disqualification Act 1975 and the <sup>M84</sup>Northern Ireland Assembly Disqualification Act 1975,
  - (d) so much of Schedule 9 as amends any enactment that extends to Northern Ireland,
  - (e) the repeal, by virtue of their inclusion in Schedule 11, of—
    - (i) the entries relating to the Corporation in the <sup>M85</sup>Statutory Corporations (Financial Provisions) Act 1975, the <sup>M86</sup>House of Commons Disqualification Act 1975, the <sup>M87</sup>Northern Ireland Assembly Disqualification Act 1975 and the <sup>M88</sup>National Audit Act 1983,
    - (ii) the <sup>M89</sup>Coal Consumers' Councils (Northern Irish Interests) Act 1962,
    - (iii) section 2(4) and (5) of the <sup>M90</sup>Overseas Development and Co-operation Act 1980 and the entry relating to the Corporation in Schedule 1 to that Act,
    - (iv) section 1(2) of the <sup>M91</sup>Continental Shelf Act 1964 and section 2(3) of the <sup>M92</sup>Territorial Sea Act 1987,
    - (v) so much of the <sup>M93</sup>Coal Industry Act 1987 as extends to Northern Ireland, and
    - (vi) the <sup>M94</sup>British Coal and British Rail (Transfer Proposals) Act 1993,and
  - (f) so much of this Part as is required for the purpose of giving effect to the extension to Northern Ireland of the provisions mentioned in the preceding paragraphs,
- does not extend to Northern Ireland.
- (9) This Act extends to the Isle of Man for the purpose of giving effect there to the repeal by this Act of subsection (3) of section 2 of the Territorial Sea Act 1987, to paragraph 10 of Schedule 10 and to so much of any restructuring scheme or any agreement under section 13 above as relates to rights mentioned in that paragraph; and, subject to that paragraph, that repeal shall accordingly include the repeal of that subsection as it extends to the Isle of Man by virtue of the <sup>M95</sup>Territorial Sea Act 1987 (Isle of Man) Order 1991.

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### Subordinate Legislation Made

- P3** S. 68(2): 31.10.1994 appointed as the restructuring date, see s. 7 and [S.I. 1994/2553, art. 2](#)
- P4** S. 68(3) power exercised: 27.3.2004 appointed as the dissolution date, see s. 23(2) and [S.I. 2004/144](#), art. 3
- P5** S. 68(4)(5) power partly exercised: 19.9.1994 appointed for specified provisions by [S.I. 1994/2189, art. 2, Sch.](#)
- P6** S. 68(4)(5) power partly exercised: 31.10.1994 and 1.11.1994 appointed for specified provisions and purposes by [S.I. 1994/2552, arts. 2, 3, Schs. 1, 2](#) and Appendices (with art. 4)
- P7** S. 68(4)(5) power partly exercised: 24.12.1994 appointed for specified provisions and purposes by [S.I. 1994/3063, art. 2, Sch.](#)
- P8** S. 68(4): power partly exercised: 31.1.1995 appointed for s. 24 by [S.I. 1995/159, art. 2](#)
- P9** S. 68(4)(5) power partly exercised: 1.3.1995 appointed for specified provisions and purposes by [S.I. 1995/273, art. 2, Sch.](#)

### Textual Amendments

- F21** S. 68(2)(d)(iii) repealed (19.11.1998) by [1998 c. 43, s. 1\(1\), Sch. 1 Pt. IV](#), Group 2
- F22** S. 68(2)(d)(v) repealed (27.5.1997) by [1997 c. 11, s. 3, Sch. 1 Pt. I](#)
- F23** [S. 68\(7\)\(za\)](#) inserted (E.W.S.) (1.4.2004) by [Water Act 2003 \(c. 37\), ss. 85\(3\), 105\(3\); S.I. 2004/641, art. 3\(w\)](#) (with [Sch. 3 para. 7](#))

### Marginal Citations

- M69** [1961 c. 64.](#)
- M70** [1964 c. 26.](#)
- M71** [1968 c. 65.](#)
- M72** [1980 c. 63.](#)
- M73** [1983 c. 44.](#)
- M74** [1984 c. 27.](#)
- M75** [1990 c. 8.](#)
- M76** [1993 c. 28.](#)
- M77** [1961 c. 64.](#)
- M78** [1980 c. 63.](#)
- M79** [1983 c. 44.](#)
- M80** [1984 c. 27.](#)
- M81** [1993 c. 28.](#)
- M82** [1967 c. 13.](#)
- M83** [1975 c. 24.](#)
- M84** [1975 c. 25.](#)
- M85** [1975 c. 55.](#)
- M86** [1975 c. 24.](#)
- M87** [1975 c. 25.](#)
- M88** [1983 c. 44.](#)
- M89** [1962 c. 22.](#)
- M90** [1980 c. 63.](#)
- M91** [1964 c. 29.](#)
- M92** [1987 c. 49.](#)
- M93** [1987 c. 3.](#)
- M94** [1993 c. 2.](#)
- M95** [S.I. 1991/1722.](#)



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