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SCHEDULES

SCHEDULE 1

Section 1.

THE COAL AUTHORITY

PART I

ORGANISATION AND PROCEEDINGS

Membership

- 1 (1) Subject to the following provisions of this paragraph, a member of the Authority shall hold and vacate office in accordance with the terms of his appointment.
- (2) Any appointment of a person as a member of the Authority shall be for a term not exceeding five years, but a person who ceases to be such a member at the end of any such term shall be eligible for re-appointment.
- (3) A member of the Authority may at any time by notice to the Secretary of State resign his office.
- (4) The Secretary of State may remove a member of the Authority if he is satisfied—
- (a) that that member has been absent from meetings of the Authority for a period of more than three consecutive months without the permission of the Authority;
 - (b) that that member has been [^{F1}made] bankrupt, that his estate has been sequestrated [^{F2}, that a debt relief order has been made in respect of him] or that he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
 - (c) that that member is unable or unfit to carry out the functions of a member.

Textual Amendments

- F1** Word in Sch. 1 para. 1(4)(b) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/481\)](#), reg. 1, [Sch. 1 para. 18](#)
- F2** Words in Sch. 1 para. 1(4)(b) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, [Sch. 2 para. 30](#) (with art. 5)

Remuneration, pensions etc.

- 2 (1) The Authority shall pay to its members such remuneration, and such travelling and other allowances, as may be determined by the Secretary of State.
- (2) The Authority shall, if so required by the Secretary of State, pay—

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- (a) such pension, allowances or gratuities to or in respect of a person who has been or is a member of the Authority, or
 - (b) such payments towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person,
- as may be determined by the Secretary of State.
- (3) If, when any member of the Authority ceases to hold office, the Secretary of State determines that there are special circumstances which make it right that that member should receive compensation, the Authority shall pay to him a sum by way of compensation of such amount as may be so determined.
- (4) The approval of the Treasury shall be required for the making of a determination under this paragraph.

Staff

- 3 (1) The Authority may, with the approval of the Secretary of State as to terms and conditions of service, appoint such officers and employees as it may determine.
- (2) No member of the Authority or other person shall be appointed by the Authority to act as its chief executive unless the Secretary of State has consented to the appointment of that person.
- (3) The Authority may—
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are its officers or employees as it may, with the approval of the Secretary of State, determine;
 - (b) make such payments as it may so determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons; and
 - (c) provide and maintain such schemes as it may so determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any such persons.
- (4) Any reference in sub-paragraph (3) above to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Authority's officers or employees who suffer loss of office or employment or loss or diminution of emoluments.
- (5) If any person—
- (a) on ceasing to hold any office or employment with the Authority, becomes or continues to be one of its members, and
 - (b) was, by reference to his office or employment with the Authority, a participant in a pension scheme maintained by the Authority for the benefit of any of its officers or employees,
- the Authority may, with the approval of the Secretary of State, make provision for him to continue to participate in that scheme, on such terms and conditions as it may with the consent of the Secretary of State determine, as if his service as a member were service as an officer or employee of the Authority; and any such provision shall be without prejudice to paragraph 2 above.

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- (6) In addition, service as an officer or employee of the Authority shall be included in the kinds of employment to which a scheme under section 1 of the ^{M1}Superannuation Act 1972 can apply; and, accordingly, in Schedule 1 to that Act (which lists the kinds of employment to which a scheme can apply), the following entry shall be inserted at the appropriate place in the list of “Other Bodies”, that is to say— “Coal Authority.”
- (7) The Authority shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to sub-paragraph (6) above in the sums payable out of money provided by Parliament under the Superannuation Act 1972.
- (8) Where any person is both a member of the Authority and a participant by reference to his service as an officer or employee of the Authority in a scheme under section 1 of the Superannuation Act 1972, the Treasury may determine that his service as such a member (including service before he became an officer or employee) shall be treated for the purposes of the scheme as service as an employee of the Authority; and any such determination shall be without prejudice to paragraph 2 above.
- (9) The consent of the Treasury shall be required for the giving of an approval under this paragraph.

Marginal Citations

M1 1972 c. 11.

Proceedings of Authority

- 4 Subject to the following provisions of this Schedule, the Authority may regulate its own procedure (including quorum).

Delegation of powers

- 5 Anything authorised or required by or under any enactment to be done by the Authority may be done by any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority.

Interests of members

- 6 (1) A member of the Authority who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Authority shall disclose the nature of his interest to the meeting.
- (2) Where such a disclosure is made, the disclosure shall be recorded in the minutes of the meeting and the member shall not take any part in any deliberation or decision of the Authority with respect to that matter if either—
- (a) it relates to any application made to the Authority or to any licence or contract which the Authority has granted or entered into or is considering granting or entering into; or
 - (b) the Authority determines that the nature of the matter, the extent of the member’s interest and any prejudicial effect of his joining in the consideration of that matter are such that the member should not take part.

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- (3) For the purposes of sub-paragraph (1) above, a general notification given at a meeting of the Authority by any of its members to the effect that—
- (a) he is a member of a specified body corporate or firm, and
 - (b) he is to be regarded as interested in any matter involving that body or firm which falls to be considered after the giving of the notification,
- shall be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (4) A member of the Authority who is required under this paragraph to make a disclosure at any meeting need not attend in person at the meeting in order to make the disclosure if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at the meeting.

Vacancies and defective appointments

- 7 The validity of any proceedings of the Authority shall not be affected by a vacancy amongst its members, by any defect in the appointment of a member or by any contravention of the requirements of paragraph 6 above.

Minutes

- 8 (1) Minutes shall be kept of proceedings of the Authority.
- (2) Minutes of any such proceedings shall be evidence of those proceedings if they are signed by a person purporting to have acted as chairman of the proceedings to which the minutes relate or of any subsequent proceedings in the course of which the minutes were approved as a correct record.
- (3) Where minutes of any such proceedings have been signed as mentioned in sub-paragraph (2) above, those proceedings shall, unless the contrary is shown, be deemed to have been regularly convened and constituted.

Application of seal and proof of instruments

- 9 (1) The application of the seal of the Authority shall be authenticated by the signature of any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority.
- (2) Every document purporting to be an instrument made or issued by or on behalf of the Authority and to be duly executed under the seal of the Authority, or to be signed or executed by a person authorised by the Authority for the purpose, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.
- (3) In this paragraph the reference to the signature of a person includes a reference to a facsimile of a signature by whatever process reproduced; and “signed” shall be construed accordingly.

The Parliamentary Commissioner

- 10 In the ^{M2}Parliamentary Commissioner Act 1967, in Schedule 2 (departments and authorities subject to investigation), there shall be inserted (at the appropriate place) the following entry—

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“ Coal Authority. ”

Marginal Citations

M2 1967 c. 13.

Parliamentary disqualification etc.

11 In the ^{M3}House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all the members are disqualified), there shall be inserted (at the appropriate place) the following entry—

“ The Coal Authority. ”;

and the like insertion shall be made in Part II of Schedule 1 to the ^{M4}Northern Ireland Assembly Disqualification Act 1975.

Marginal Citations

M3 1975 c. 24.

M4 1975 c. 25.

Interpretation

12 In this Part of this Schedule, “member”, in relation to the Authority, includes its chairman and deputy chairman.

PART II

FINANCIAL PROVISIONS

Financial duties

- 13 (1) The Secretary of State may, after consultation with the Authority, determine the financial duties of the Authority, and different determinations may be made for different functions and activities of the Authority.
- (2) A determination under this paragraph may—
- (a) relate to a period beginning before the date on which it is made;
 - (b) contain supplemental provisions; and
 - (c) be varied by a subsequent determination.
- (3) The Secretary of State shall give the Authority written notice of every determination made under this paragraph and it shall be the duty of the Authority to conduct its finances in accordance with the determinations of which it has been given notice.
- (4) The approval of the Treasury shall be required for the making of a determination under this paragraph.

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Finances of the Authority

- 14 (1) The Secretary of State shall, in respect of each accounting year, pay to the Authority such amount as he may determine to be the amount required by the Authority for the carrying out during that year of its functions under this Act.
- (2) Except so far as the Secretary of State may otherwise direct, sums received by the Authority in the course of carrying out its functions shall be paid by the Authority to the Secretary of State.
- (3) Any sums required by the Secretary of State for making a payment under sub-paragraph (1) above shall be paid out of money provided by Parliament; and any sums received by the Secretary of State under sub-paragraph (2) above shall be paid into the Consolidated Fund.
- (4) The approval of the Treasury shall be required for the making of a determination, or the giving of any direction, under this paragraph.
- (5) In this paragraph and paragraph 15 below “accounting year” means the period beginning with the day on which the Authority is established and ending with the financial year current on that date, and each successive financial year.

Accounts

- 15 (1) The Authority—
- (a) shall keep proper accounts and records in relation to its accounts; and
 - (b) in respect of each accounting year, shall prepare a statement of accounts in such form, and within such period after the end of that year, as the Secretary of State may, with the approval of the Treasury, direct.
- (2) Before such date after the end of every accounting year as the Secretary of State may direct, the Authority shall send to the Secretary of State a copy of the statement of accounts prepared in respect of that accounting year under sub-paragraph (1)(b) above.
- (3) On or before 31st August following the end of every accounting year, the Secretary of State shall send a copy of the statement of accounts prepared in respect of that year to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General shall examine, certify and report on every statement of accounts sent to him under sub-paragraph (3) above and shall lay copies of the statement and of his report before each House of Parliament.

[^{F3}SCHEDULE 1A

Section 4B(8)

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Textual Amendments

- F3** Sch. 1A inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), s. 105(3), [Sch. 5](#); S.I. 2004/641, art. 3(w) (with [Sch. 3 para. 7](#))

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Interpretation

- 1 (1) In this Schedule—
- “designated person” means an authorised person, within the meaning of section 4B of this Act, and includes a person designated by virtue of paragraph 2 below;
- “relevant power” means a power conferred by section 4B of this Act, including a power exercisable by virtue of a warrant under this Schedule.
- (2) Expressions used in this Schedule and in section 4B of this Act have the same meaning in this Schedule as they have in that section.

Issue of warrants

- 2 (1) If it is shown to the satisfaction of a justice of the peace, on sworn information in writing—
- (a) that there are reasonable grounds for the exercise in relation to any premises of a relevant power; and
- (b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises,
- the justice may by warrant authorise the Authority to designate a person who shall be authorised to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.
- (2) The conditions mentioned in sub-paragraph (1)(b) above are—
- (a) that the exercise of the power in relation to the premises has been refused;
- (b) that such a refusal is reasonably expected;
- (c) that the premises are unoccupied; or
- (d) that the occupier is temporarily absent from the premises and the case is one of urgency.
- (3) In a case where subsection (5) of section 4B of this Act applies, a justice of the peace shall not issue a warrant under this Schedule merely because he is satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably expected, unless he is also satisfied that the notice required by that subsection has been given and that the period of that notice has expired.
- (4) Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Manner of exercise of powers

- 3 A person designated as the person who may exercise a relevant power shall produce evidence of his designation and other authority before he exercises the power.

Duty to secure premises

- 4 A person who, in the exercise of a relevant power, enters on any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as he found them.

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Compensation

- 5 (1) Where any person exercises any power conferred by section 4B(3)(a) or (c) or (4) of this Act, it shall be the duty of the Authority to make full compensation to any person who has sustained loss or damage by reason of—
- (a) the exercise by the designated person of that power; or
 - (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 4 above.
- (2) Compensation shall not be payable by virtue of sub-paragraph (1) above in respect of any loss or damage if the loss or damage is attributable to the default of the person who sustained it.
- (3) Any dispute as to a person’s entitlement to compensation under this paragraph, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator, appointed by agreement between the Authority and the person who claims to have sustained the loss or damage or, in default of agreement, by the Secretary of State.
- (4) A designated person shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of any relevant power if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.]

[^{F4}SCHEDULE 1B

Section 4C(5)

MODIFICATION OF COMPENSATION PROVISIONS ETC IN RELATION TO THE CREATION OF NEW RIGHTS

Textual Amendments

- F4** Sch. 1B inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), s. 105(3), [Sch. 6](#); [S.I. 2004/641](#), art. 3(w) (with [Sch. 3 para. 7](#))

Compensation enactments

- 1 Subject to the following provisions of this Schedule, the enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under section 4C of this Act of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

Adaptation of the Compulsory Purchase Act 1965

- 2 (1) The Compulsory Purchase Act 1965 (in the following provisions of this Schedule referred to as “the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory acquisition under section 4C of this Act of a right by the creation of a new right as it applies to the compulsory acquisition under that section of land, so that, in appropriate contexts, references in that Act to land are to

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be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

- (2) Without prejudice to the generality of sub-paragraph (1) above, Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under section 4C this Act of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

Section 7 of the 1965 Act

- 3 For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

Section 8 of the 1965 Act

- [^{F54} Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE
2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

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Response to counter-notice

- 5 On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.
- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right,
 - (b) the proposed use of the right, and
 - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

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- (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”]

Textual Amendments

- F5** Sch. 1B para. 4 substituted (3.2.2017) by Housing and Planning Act 2016 (c. 22), s. 216(3), Sch. 17 paras. 6, 7; S.I. 2017/75, reg. 3(g) (with reg. 5)

Effect of deed poll

- 5 The following provisions of the 1965 Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—
- (a) section 9(4) (refusal by owners to convey);
 - (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
 - (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
 - (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

Section 11 of the 1965 Act

- 6 Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) shall be modified correspondingly.

Section 20 of the 1965 Act

- 7 Section 20 of the 1965 Act (protection for interests of tenants at will etc) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under section 4C of this Act of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Section 22 of the 1965 Act

- 8 Section 22 of the 1965 Act (protection of acquiring authority’s possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred

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to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.]

[^{F6}SCHEDULE 1C

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY: SCOTLAND

Textual Amendments

F6 Sch. 1C inserted (20.6.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), s. 37(2), [sch. 4](#) (with s. 36); [S.S.I. 2005/351](#), art. 2, [sch. 1](#)

Exercise of powers of entry etc.

- 1 (1) A person entitled to enter premises by virtue of the power mentioned in section 4E(3) (a) of this Act—
- (a) may take on to the premises such other persons (including, if the person reasonably believes he is likely to be obstructed, a constable) and such equipment or materials as may be necessary; but this is, where that power is exercisable under a warrant, subject to the terms of the warrant; and
 - (b) must, if required to do so, produce written evidence of that entitlement.
- (2) A person who enters premises in the exercise of a power conferred by virtue of section 4E of this Act must leave the premises as effectually secured against trespassers as the person found them.
- (3) Where a person exercises a power conferred by virtue of section 4E(3)(a) or (4) of this Act, the Authority is to make full compensation to any person who has sustained loss or damage by reason of—
- (a) the exercise of that power; or
 - (b) the carrying out of, or failure to carry out, the duty imposed by sub-paragraph (2) above,
- except in so far as the loss or damage is attributable to the fault of the person who sustained it.
- (4) Any dispute as to a person's entitlement to compensation under sub-paragraph (3) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbiter, appointed—
- (a) by agreement between the Authority and the person who claims to have sustained the loss or damage; or
 - (b) in default of agreement, by the Scottish Ministers.
- (5) Any person who makes use of or discloses any trade secret of which the person has gained knowledge as a result of the exercise of a power conferred by virtue of section 4E of this Act is guilty of an offence.
- (6) A person who is guilty of an offence under sub-paragraph (5) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.

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(7) In this schedule, “premises” has the meaning given by section 4E(8) of this Act.

Warrants

- 2 (1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that—
- (a) there are reasonable grounds for the exercise in relation to any premises of a power mentioned in section 4E(3) or (4) of this Act; and
 - (b) at least one of the conditions mentioned in sub-paragraph (2) below is fulfilled in relation to the premises,
- the sheriff or justice may grant a warrant authorising the Authority (and any person authorised by the Authority for the purpose) to exercise the power in relation to the premises in accordance with the terms of the warrant and, if need be, by force.
- (2) The conditions are—
- (a) that the exercise of the power in relation to the premises has been refused;
 - (b) that such a refusal may reasonably be expected;
 - (c) that the premises are unoccupied;
 - (d) that the occupier is temporarily absent from the premises and the case is one of urgency.
- (3) In a case where subsections (5) and (6) of section 4E of this Act apply, a sheriff or justice shall not issue a warrant under this paragraph by virtue of being satisfied that a condition mentioned in head (a) or (b) of sub-paragraph (2) above is fulfilled unless the sheriff or justice is also satisfied that notice required by subsection (5)(a) of that section has been given and that the period of that notice has expired.
- (4) A warrant granted under this paragraph continues in force until the purposes for which the warrant is issued have been fulfilled.]

SCHEDULE 2

Section 12.

RESTRUCTURING SCHEMES

Contents and effect of scheme

- 1 (1) This paragraph shall have effect as regards the manner in which effect is to be given to—
- (a) the creation in accordance with a restructuring scheme of any interests or rights in or in relation to property; and
 - (b) the transfer in accordance with such a scheme of any property, rights or liabilities.
- (2) Provisions of a restructuring scheme for the creation, by virtue of section 12(1) of this Act or paragraph 2 below, of any interest or right in or in relation to any property shall specify—
- (a) the property in question and the interest or right to be created;
 - (b) the person in whose favour it is to be created; and
 - (c) the terms and conditions subject to which it is created;

Status: Point in time view as at 03/02/2017.

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and this Act shall have effect so as, without further assurance, to create the specified interests and rights as from the beginning of the restructuring date or, in the case of interests or rights created by virtue of paragraph 2 below, as from such date as may be appointed by the scheme in relation to the interest or right in question.

- (3) Provisions of a restructuring scheme for the transfer of property, rights or liabilities to any person shall—
- (a) specify or describe the property, rights and liabilities to be transferred;
 - (b) allocate the property, rights or liabilities to the person to whom the transfer is to be made; and
 - (c) appoint the day on which each of the transfers for which the scheme provides is to come into force;

and such a scheme may allocate different property, rights or liabilities to different persons and may appoint different days for the scheme to come into force in relation to different transfers and different persons.

- (4) This Act shall have effect, in relation to any provisions of a restructuring scheme for the transfer of any property, rights or liabilities, so as to transfer the property, rights or liabilities, at the beginning of the day appointed for the coming into force of the transfer and without further assurance, from the Corporation or, as the case may be, its wholly-owned subsidiary to the person to whom they are allocated under the scheme; and the provisions of that scheme in relation to that transfer shall have effect from that time accordingly.
- (5) The preceding provisions of this paragraph shall have effect subject to so much of any restructuring scheme as provides for—
- (a) the creation of any of the interests or rights to be created in accordance with the scheme, or
 - (b) the transfer of any of the property, rights or liabilities to be transferred in accordance with the scheme,
- to be effected by or under any agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 2(1)(g) below.
- (6) The same restructuring scheme may contain provision made by virtue of subsection (1) of section 12 of this Act and provision made by virtue of subsection (2) of that section.
- (7) Any matter which under this paragraph is to be included in a restructuring scheme, as well as any other matter for which provision may be made by such a scheme, may be included in the scheme wholly or partly by means of—
- (a) a description framed by reference to the part of the Corporation's undertaking which in accordance with the scheme is to be transferred to any person; or
 - (b) the application of any provision or description contained, in relation to that matter, in any agreement under section 13 of this Act.
- (8) In their application to Scotland, sub-paragraphs (2) and (4) above shall have effect, respectively, with the omission of the words “without further assurance” and with the omission of the words “and without further assurance”.

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Division of property by scheme

- 2 (1) For the purpose of making any such division as the Secretary of State considers appropriate of any of the property, rights and liabilities to which the Corporation and its wholly-owned subsidiaries are at any time entitled or subject between any two or more different persons (including, in so far as he thinks fit, any division between the Corporation or any such subsidiary and one or more other persons) a restructuring scheme may contain provision—
- (a) for the creation, in favour of the Corporation or any of its wholly-owned subsidiaries, of an interest or right in or in relation to property transferred in accordance with that scheme to any person;
 - (b) for the creation, in favour of a person to whom any transfer is made, of an interest or right in or in relation to property so transferred to another;
 - (c) for giving effect to a transfer to any person by the creation, in favour of that person, of an interest or right in or in relation to property retained by the Corporation or any of its wholly-owned subsidiaries;
 - (d) for rights and liabilities to be transferred so as to be enforceable by or against more than one transferee or by or against both one or more transferees and the Corporation or any of its wholly-owned subsidiaries;
 - (e) for rights and liabilities enforceable by or against more than one person in accordance with any provision falling within paragraph (d) above to be enforceable in different or modified respects by or against each or any of them;
 - (f) for the creation of new rights and liabilities as between different transferees and as between transferees and persons who, in pursuance of the division, continue to be entitled or subject to any property, rights or liabilities; and
 - (g) without prejudice to paragraph (f) above, for imposing on any transferee, the Corporation or any of its wholly-owned subsidiaries an obligation—
 - (i) to enter into such written agreements with any other person on whom any corresponding obligation is, could be or has been imposed by virtue of this paragraph (whether in the same or a different scheme),
or
 - (ii) to execute such instruments in favour of any such person,
as may be specified or described in the scheme.
- (2) A restructuring scheme may contain such supplemental and incidental provision with respect to the interests, rights and liabilities of third parties in relation to anything to which the scheme relates as the Secretary of State considers to be necessary or expedient for the purposes of any such division as is mentioned in sub-paragraph (1) above, or in connection with anything contained in the scheme by virtue of that sub-paragraph.
- (3) The provision that may be contained in a restructuring scheme by virtue of sub-paragraph (2) above shall include provision for interests, rights or liabilities to which any third party is entitled or subject in relation to anything to which the scheme relates to be modified in such respects or in such manner as may be specified in or determined under the scheme.
- (4) An obligation imposed on any person by virtue of sub-paragraph (1)(g) above shall be enforceable by the bringing, by any person with or in favour of whom the agreement or instrument is to be entered into or executed, of civil proceedings for an injunction or for interdict or for other appropriate relief.

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- (5) In this paragraph—
- (a) references, in relation to a restructuring scheme, to a transferee include references to any person in whose favour any interest or right is created in accordance with the scheme; and
 - (b) the reference, in relation to such a scheme, to a third party is a reference to any person who (apart from any provision made by virtue of sub-paragraph (1)(e) or (2) above) is neither a transferee nor a person from whom any transfer is to be made in accordance with the scheme.
- (6) Sub-paragraphs (2) and (3) above shall be without prejudice to the generality of paragraph 4(1) below.

Property to which a scheme may relate

- 3 (1) The property, rights and liabilities that shall be capable of being transferred in accordance with a restructuring scheme shall include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the Corporation or, as the case may be, its wholly-owned subsidiary;
 - (b) property acquired at a time after the making of the scheme and before the transfer comes into force, and rights and liabilities which arise or may arise in respect of anything occurring after the making of the scheme;
 - (c) property, rights and liabilities in relation to anything with respect to which provision has been made by a previous restructuring scheme;
 - (d) property situated anywhere in the United Kingdom or elsewhere and rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom; and
 - (e) rights and liabilities under enactments.
- (2) The transfers authorised by sub-paragraph (1)(a) above, and the interests and rights that may be created in accordance with a restructuring scheme, include transfers, interests and rights which are to take effect as if there were—
- (a) no such requirement to obtain any person’s consent or concurrence,
 - (b) no such liability in respect of a contravention of any other requirement, and
 - (c) no such interference with any interest or right,
- as there would be, in the case of any transaction apart from this Act, by reason of provisions having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the Corporation or any of its wholly-owned subsidiaries is entitled or subject to any property, right or liability.
- (3) Where apart from this sub-paragraph any person would have an entitlement, in consequence of anything done or likely to be done by or under this Act or the ^{M5}British Coal and British Rail (Transfer Proposals) Act 1993, to terminate, modify, acquire or claim an interest or right which, at the passing of this Act, is vested in the Corporation, or in any of its wholly-owned subsidiaries, or to treat any such interest or right as terminated or modified, then—
- (a) for the purposes of the transfer of the interest or right in accordance with a restructuring scheme, that entitlement shall not be enforceable in relation to that interest or right until after its transfer in accordance with such a scheme; and

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- (b) without prejudice to the preceding provisions of this paragraph or to paragraph 4(2)(b) below, that entitlement shall be enforceable in relation to the interest or right after its transfer only in so far as the scheme contains provision for it to be transferred subject to the provisions conferring that entitlement.
- (4) Subject to sub-paragraphs (5) and (6) below, nothing in sub-paragraph (1) or (2) above shall enable—
- (a) any agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 2(1)(g) above, or
- (b) anything done under any such agreement,
- to give effect to any transfer, or to create any interest or right, which could not apart from this paragraph have been made or created by or under that agreement or instrument.
- (5) A restructuring scheme may provide for—
- (a) the transfers to which effect is to be given by or under any agreement or instrument entered into or executed in accordance with the scheme, or
- (b) the interests or rights that are to be created by or under any such agreement or instrument,
- to include, to such extent as may be specified in the scheme, any such transfer, interest or right as is mentioned in sub-paragraph (2) above.
- (6) A restructuring scheme may provide that sub-paragraph (3) above shall apply in relation to the provisions of any agreement or instrument which is to be entered into or executed in accordance with the scheme, and in relation to any proposal for such an agreement or for the execution of such an instrument, as if the reference in sub-paragraph (3)(b) above to provision contained in the scheme included a reference to provision contained, in accordance with the scheme, in the agreement or instrument.

Marginal Citations

M5 1993 c. 2.

Supplemental provisions of schemes

- 4 (1) A restructuring scheme may contain supplemental, incidental, consequential and transitional provision for the purposes of, or in connection with, any transfer of property, rights or liabilities for which the scheme provides or in connection with any other provisions contained in the scheme; and any such provision may include different provision for different cases or different purposes.
- (2) A restructuring scheme may, in relation to transfers in accordance with the scheme, make provision, either generally or for such purposes as may be specified in the scheme—
- (a) for the transfers to be regarded as taking place in a specified order;
- (b) for the transferee to be treated as the same person in law as the Corporation or, as the case may be, its wholly-owned subsidiary;
- (c) for agreements made, transactions effected or other things done by or in relation to the Corporation or any of its wholly-owned subsidiaries to be

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- treated, so far as may be necessary for the purposes of or in connection with the transfers, as made, effected or done by or in relation to the transferee;
- (d) for references in any agreement (whether or not in writing) or in any deed, bond, instrument or other document to, or to any member or officer of, the Corporation or any of its wholly-owned subsidiaries to have effect, so far as may be necessary for the purposes of or in connection with any of the transfers, with such modifications as are specified in the scheme;
- (e) for proceedings commenced by or against the Corporation or any of its wholly-owned subsidiaries to be continued by or against the transferee;
- (f) for any such questions about the effect of the scheme as arise between different transferees, or between any of the transferees on the one hand and the Corporation or any of its wholly-owned subsidiaries or a transferee under another scheme on the other, to be referred to such arbitration as may be specified in or determined under the scheme in question, and for determinations in any such arbitrations to be conclusive;
- (g) for a certificate as to the effect of the scheme which is given—
- (i) jointly by the Corporation and any one or more persons who are transferees under the scheme, or
 - (ii) by the Corporation or any such transferee with the concurrence as to the statements contained in the certificate of any other persons,
- to be conclusive as between the persons giving, or concurring in the giving of, the certificate.
- (3) Where any person is entitled, in consequence of any transfer made in accordance with a restructuring scheme or in pursuance of any provision made under this paragraph, to possession of a document relating in part to the title to, or to the management of, any land or other property in England and Wales—
- (a) the scheme may contain provision for treating that person as having given another person an acknowledgment in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
 - (b) section 64 of the ^{M6}Law of Property Act 1925 (production and safe custody of documents) shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.
- (4) Where any person is entitled, in consequence of any transfer made in accordance with a restructuring scheme or in pursuance of provision made under this paragraph, to possession of a document relating in part to the title to, or to the management of, any land or other property in Scotland transferred in accordance with a restructuring scheme, subsections (1) and (2) of section 16 of the ^{M7}Land Registration (Scotland) Act 1979 (omission of certain clauses in deeds) shall have effect in relation to the transfer as if the transfer had been effected by deed and as if from each of those subsections the words “unless specially qualified” were omitted.
- (5) Where a restructuring scheme makes provision in relation to any agreement contained in a licence granted under section 36 of the 1946 Act (licensing by Corporation of certain coal-mining operations and of coal exploration), that provision may include such modifications of that agreement, together with such modifications for the purposes of section 25(3) of this Act, as the Secretary of State considers appropriate in consequence of the provisions of Parts II and III of this Act.
- (6) In this paragraph—

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- (a) references to a transfer include references to the creation in any person's favour of any interest or right, and references to a transferee shall be construed accordingly; and
 - (b) references to a person who is entitled, in consequence of any transfer, to possession of a document, include references to the Corporation or any of its wholly-owned subsidiaries in a case where the Corporation or that subsidiary is entitled to retain possession of any document following any transfer.
- (7) Sub-paragraphs (2) to (5) above shall be without prejudice to the generality of sub-paragraph (1) above.

Marginal Citations

- M6** 1925 c. 20.
- M7** 1979 c. 33.

Duties in relation to foreign property etc.

- 5 (1) A restructuring scheme may provide for the imposition of duties on—
- (a) the Corporation or any of its wholly-owned subsidiaries, and
 - (b) any person to whom anything is transferred in accordance with the scheme, to take all such steps as may be requisite to secure that the vesting in that person, in accordance with the scheme, of any foreign property, right or liability is effective under the relevant foreign law.
- (2) The provisions of a restructuring scheme may require the Corporation or any of its wholly-owned subsidiaries, in performing any duty imposed on it by virtue of sub-paragraph (1) above, to comply with any directions of a person to whom anything is transferred in accordance with the scheme.
- (3) A restructuring scheme may provide that, until the vesting of any foreign property, right or liability of the Corporation or any of its wholly-owned subsidiaries in any person is effective under the relevant foreign law, it shall be the duty of the Corporation or that subsidiary to hold that property or right for the benefit of that person or, as the case may be, to discharge that liability on behalf of that person.
- (4) Nothing in any provision included by virtue of this paragraph in a restructuring scheme shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting in any person in accordance with the scheme of any foreign property, right or liability.
- (5) The Corporation and its wholly-owned subsidiaries shall each have all such powers as may be requisite for the performance of any duty imposed on it by virtue of this paragraph; but such a scheme may require a person to whom a transfer is made in accordance with the scheme to act (so far as possible) on behalf of the Corporation or its subsidiary for the purposes of, or in connection with, the performance of any such duty.
- (6) A restructuring scheme may provide that where—
- (a) any foreign property, rights or liabilities are acquired or incurred by the Corporation or any of its wholly-owned subsidiaries in respect of any other property, rights or liabilities, and

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- (b) by virtue of this paragraph the Corporation or its wholly-owned subsidiary holds the other property or rights for the benefit of another person or discharges the other liability on behalf of another person, the property, rights or liabilities acquired or incurred are immediately to become property, rights or liabilities of that other person; and the preceding provisions of this paragraph shall have effect accordingly in relation to the property, rights or liabilities acquired or incurred.
- (7) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with any rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (8) A restructuring scheme may provide—
- (a) for any obligation imposed by virtue of this paragraph to be enforceable as if contained in a contract between the person to whom the transfer in question is made and the Corporation or, as the case may be, its wholly-owned subsidiary; and
 - (b) for expenses incurred by the Corporation or any of its wholly-owned subsidiaries in consequence of any provision made by virtue of this paragraph to be met by that person.

Modification of effect of scheme by agreement

- 6 (1) This paragraph applies where any person to whom anything has been transferred in accordance with a restructuring scheme agrees in writing with another person to or from whom anything has been transferred in accordance with that or any other restructuring scheme that, for the purpose of modifying the effect of the scheme or, as the case may be, of modifying either or both of the schemes—
- (a) any or all of the property, rights or liabilities transferred in accordance with the scheme or either of them, and
 - (b) any or all of the property, rights or liabilities acquired or incurred since the transfer in respect of the transferred property, rights or liabilities,
- should be transferred from one to the other as from a date appointed by the agreement.
- (2) If—
- (a) the agreement is entered into within the period of twelve months after the time when a transfer in accordance with a restructuring scheme of property, rights or liabilities to any of its parties takes effect, and
 - (b) the Secretary of State has given his approval to the transfer for which the agreement provides and to its terms and conditions,
- then the transfer for which the agreement provides shall take effect on the date appointed by the agreement in the like manner as a transfer for which provision is made by a restructuring scheme.
- (3) Subject to the approval of the Secretary of State and to sub-paragraphs (4) to (6) below, the provisions that may be contained in a modification agreement shall include any such provision in relation to any transfer for which it provides as may be contained, in relation to any transfer for which a restructuring scheme provides, in that scheme.

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- (4) Nothing in any modification agreement shall provide for any interests or rights to be created, as opposed to transferred, except as between persons who are parties to the agreement.
- (5) A modification agreement shall have effect subject to the provisions of any enactment or subordinate legislation which makes provision, in relation to any transactions with the same effect, for the registration of anything in a statutory register.
- (6) The consent of the Treasury shall be required for the inclusion in a modification agreement of any provision having the effect of modifying any provision which is contained in a restructuring scheme for any of the purposes of Schedule 4 to this Act.
- (7) In this paragraph references to a transfer in accordance with a restructuring scheme include references to the creation of any interest, right or liability in accordance with such a scheme.
- (8) In this paragraph and the following provisions of this Schedule “modification agreement” means any agreement providing for a transfer which is to take effect in accordance with sub-paragraph (2) above.

The Transfer of Undertakings (Protection of Employment) Regulations 1981

- 7 (1) The 1981 regulations shall apply to any transfer of any undertaking or part of an undertaking in accordance with a restructuring scheme or modification agreement as if (in so far as that would not otherwise be the case) the references in those regulations to the transferor were references to the person in whom that undertaking or part was vested immediately before the coming into force of the transfer.
- (2) Nothing in the preceding provision of this Schedule shall authorise the making of any provision modifying the operation of the 1981 regulations in relation to any such transfer as is mentioned in sub-paragraph (1) above.
- (3) It shall be the duty of the Secretary of State, before making a restructuring scheme or approving a modification agreement, to give such notice of his proposals to such persons as he considers appropriate for enabling any provisions of the 1981 regulations applicable to any transfer in accordance with the scheme or agreement to be complied with by the person who for the purposes of the regulations is the transferor in relation to that transfer.
- (4) In this paragraph—
 - “the 1981 regulations” means the ^{M8}Transfer of Undertakings (Protection of Employment) Regulations 1981; and
 - “undertaking” has the same meaning as in the 1981 regulations.
- (5) This paragraph shall be without prejudice to the provisions of Schedule 5 to this Act.

Marginal Citations

M8 [S.I. 1981/1794](#).

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Compensation

- 8 (1) Where, in consequence of any provisions included in a restructuring scheme for the purposes of any such division as is mentioned in paragraph 2(1) above, the interests, rights or liabilities of a third party are modified as mentioned in sub-paragraph (2) below, the third party shall be entitled to such compensation as may be just in respect of—
- (a) any diminution attributable to that modification in the value of any of his interests or rights; or
 - (b) any increase attributable to that modification in the burden of his liabilities.
- (2) The modifications mentioned in sub-paragraph (1) above are modifications by virtue of which—
- (a) an interest of the third party in any property is transformed into, or replaced by—
 - (i) an interest in only part of that property; or
 - (ii) separate interests in different parts of that property;
 - (b) a right of the third party against the Corporation or any of its wholly-owned subsidiaries is transformed into, or replaced by, two or more rights which do not include a right which, on its own, is equivalent (disregarding the person against whom it is enforceable) to the right against the Corporation or that subsidiary;
 - (c) a liability of the third party to the Corporation or any such subsidiary is transformed into, or replaced by, two or more separate liabilities at least one of which is a liability enforceable by a person other than the Corporation or that subsidiary; or
 - (d) any interests, rights or liabilities of the third party are altered in such other manner as does not either—
 - (i) relate to the identity of the person or persons against whom the third party's interests or rights are enforceable or of the person or persons by whom the liabilities to which he is or may become subject are enforceable; or
 - (ii) effect a modification in relation to which sub-paragraph (3) below would apply but for paragraph (c) of that sub-paragraph.
- (3) Where—
- (a) a third party would, apart from any provisions of a restructuring scheme or paragraph 3(3) above, have become entitled to, or to exercise, any interest or right arising or exercisable—
 - (i) in respect of the transfer or creation in accordance with such a scheme of any property, rights or liabilities, or
 - (ii) otherwise in respect of anything done by or under this Act or the ^{M9}British Coal and British Rail (Transfer Proposals) Act 1993,
 - (b) the provisions of that scheme or of paragraph 3(3) above have the effect of preventing that person's entitlement to, or to exercise, that interest or right from arising on any occasion in respect of anything mentioned in paragraph (a)(i) or (ii) above, and
 - (c) provision is not made by a restructuring scheme for securing that an entitlement to, or to exercise, that interest or right or an equivalent interest or right, is preserved or created so as to arise in respect of the first occasion

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when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides,

the third party shall be entitled to such compensation as may be just in respect of the extinguishment of the interest or right.

- (4) A liability to pay compensation under this paragraph shall fall on the persons not themselves being third parties who, as the case may be—
- (a) have interests in the whole or any part of the property affected by the modification in question;
 - (b) are subject to the rights of the person to be compensated which are affected by that modification;
 - (c) are entitled to enforce the liabilities of the person to be compensated which are affected by that modification; or
 - (d) benefit from the extinguishment of the entitlement mentioned in sub-paragraph (3) above;
- and that liability shall be apportioned between those persons in such manner as may be appropriate having regard to the extent of their respective interests, rights or liabilities or the extent of the benefit they respectively obtain from the extinguishment.
- (5) Where any liability falls by virtue of sub-paragraph (4) above on the Corporation or any of its wholly-owned subsidiaries, that sub-paragraph shall have effect subject to so much of any restructuring scheme (including the one which gives rise to the liability) as makes provision for the transfer of that liability to any other person.
- (6) Any dispute as to whether, or as to the person by whom, any compensation is to be paid under this paragraph, and any dispute as to the amount of any compensation to be paid by any person, shall, according to whether the claimant requires the matter to be determined in England and Wales or in Scotland, be referred to and determined by—
- (a) an arbitrator appointed by the Lord Chancellor; or
 - (b) an arbiter appointed by the Lord President of the Court of Session.
- (7) This paragraph shall have effect in relation to the provisions of any agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 2(1)(g) above, and to any modification agreement, as it has effect in relation to the provisions of a restructuring scheme.
- (8) In this paragraph “third party”, in relation to provisions capable of giving rise to a right to compensation under this paragraph, means any person other than—
- (a) the Corporation or any of its wholly-owned subsidiaries;
 - (b) the Authority or the Secretary of State;
 - (c) a company which is wholly owned by the Crown at the time in relation to which those provisions have effect; or
 - (d) where the provisions in question are the provisions of a restructuring scheme, any person whose consent to those provisions has been given for the purposes of section 12(4) of this Act or who has agreed to those provisions by virtue of being a party to an agreement under section 13 of this Act or a modification agreement.

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Marginal Citations

M9 1993 c. 2.

Notice to persons affected by scheme

- 9 (1) It shall be the duty of the Secretary of State, where it appears to him in the case of any restructuring scheme or modification agreement that there are persons whose property, rights or liabilities are affected in a manner that may give rise to an entitlement to compensation under paragraph 8 above, to give notice under this paragraph to every such person.
- (2) A notice to be given by the Secretary of State under this paragraph shall be given as soon as reasonably practicable after he makes the scheme or, as the case may be, gives his approval in relation to the agreement.
- (3) A notice under this paragraph shall set out the general effect of the scheme or, as the case may be, of the agreement and shall describe the respects in which it appears to the Secretary of State that the property, rights or liabilities of the person to whom it is given are affected.
- (4) For the purposes of section 63(3) of this Act, so far as it relates to the service of a notice under this paragraph, any address which—
- (a) has been specified to the Corporation or any of its wholly-owned subsidiaries, and
 - (b) is notified to the Secretary of State in pursuance of the Corporation’s duty under section 14 of this Act,
- shall be deemed to have been specified to the Secretary of State.
- (5) Where it is not reasonably practicable for the notice under this section to any person to be given to that person in accordance with section 63 of this Act, the Secretary of State shall, instead, take such steps for publishing the contents of the notice as he may consider appropriate for the purpose of bringing the matters to which the notice relates to the attention of that person.

SCHEDULE 3

Section 15.

FINANCIAL STRUCTURE OF SUCCESSOR COMPANIES

Meaning of “relevant successor company”

- 1 In this Schedule “relevant successor company” means any successor company which is limited by shares.

Initial Government holding in companies

- 2 (1) As a consequence of the vesting in a relevant successor company, at a time when it is wholly owned by the Crown and in accordance with any restructuring scheme, of any property, rights and liabilities, that company shall issue such securities of the company as the Secretary of State may from time to time direct—

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- (a) to the Treasury or the Secretary of State; or
 - (b) to any person entitled to require the issue of the securities following their initial allotment, in accordance with directions of the Secretary of State, to the Treasury or the Secretary of State.
- (2) The Secretary of State shall not give a direction under sub-paragraph (1) above at a time when the relevant successor company in question has ceased to be wholly owned by the Crown.
- (3) Securities to be issued in pursuance of this paragraph shall be issued at such time or times, and (subject to sub-paragraph (4) below) on such terms, as the Secretary of State may direct.
- (4) Any shares of a relevant successor company issued in pursuance of this paragraph—
 - (a) shall be of such nominal value as the Secretary of State may direct; and
 - (b) shall be issued as fully paid and treated for the purposes of [F7 the Companies Act 2006] as if they had been paid up by virtue of the payment to the company of their nominal value in cash.
- (5) The Secretary of State may not exercise any power conferred on him by this paragraph, or dispose of any securities issued or of any rights to securities initially allotted to him in pursuance of this paragraph, without the consent of the Treasury.

Textual Amendments

- F7** Words in *Sch. 3 para. 2(4)(b)* substituted (1.10.2009) by *The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941)*, art. 1(2), **Sch. 1 para. 147(4)** (with art. 10)

Government investment in companies

- 3 (1) Subject to section 16 of this Act, the Treasury or, with the consent of the Treasury, the Secretary of State may at any time acquire—
 - (a) securities of a relevant successor company; or
 - (b) rights to subscribe for any such securities.
- (2) The Secretary of State shall not dispose of any securities or rights acquired by him by virtue of this paragraph without the consent of the Treasury.
- (3) Any expenses incurred by the Treasury or the Secretary of State in consequence of the provisions of this paragraph shall be paid out of money provided by Parliament.

Exercise of functions through nominees

- 4 (1) The Treasury or, with the consent of the Treasury, the Secretary of State may, for the purposes of paragraphs 2 and 3 above, appoint any person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State; but—
 - (a) the issue or allotment in pursuance of paragraph 2 above of securities of a relevant successor company to any nominee of the Treasury or the Secretary of State appointed for the purposes of that paragraph,

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- (b) the issue in pursuance of that paragraph of any such securities to any person entitled to be issued with the securities following their initial allotment to any such nominee, and
- (c) the acquisition under paragraph 3 above by any nominee of the Treasury or the Secretary of State appointed for the purposes of that paragraph 3 of any securities or rights,

shall be in accordance with such directions as may be given from time to time by the Treasury or, with the consent of the Treasury, by the Secretary of State.

- (2) Any person holding any securities or rights as a nominee of the Treasury or the Secretary of State by virtue of this paragraph shall hold and deal with them (or any of them) on such terms and in such manner as the Treasury or, with the consent of the Treasury, the Secretary of State may direct.

Payment of dividends etc. into Consolidated Fund

- 5 Any dividends or other sums received by the Treasury or the Secretary of State in right of, or on the disposal of, any securities or rights acquired by virtue of paragraph 2 or 3 above shall be paid into the Consolidated Fund.

Distributable reserves of companies

- 6 (1) Where statutory accounts of a relevant successor company prepared as at any time would show the company as having net assets in excess of the aggregate of—
 - (a) its called-up share capital, and
 - (b) the amount, apart from any property, rights and liabilities to which the company has become entitled or subject in accordance with any restructuring scheme, of its undistributable reserves,

then, for the purposes of [F8 section 830 of the Companies Act 2006] (profits available for distribution) and of the preparation as at that time of any statutory accounts of the company, that excess shall be treated, except so far as the Secretary of State may otherwise direct, as representing an excess of the company's accumulated realised profits over its accumulated realised losses.

- (2) For the purposes of [F9 section 831 of the Companies Act 2006] (restriction on distribution of assets) so much of any excess of a company's net assets as falls, in accordance with a direction under sub-paragraph (1) above, to be treated otherwise than as representing an excess of the company's accumulated realised profits over its accumulated realised losses shall be treated (subject to any modification of that direction by a subsequent direction under this paragraph) as comprised in the company's undistributable reserves.
- (3) A direction under this paragraph may provide, in relation to any amount to which it applies, that, on the realisation (whether before or after the company in question ceases to be wholly owned by the Crown) of such profits and losses as may be specified or described in the direction, so much of that amount as may be determined in accordance with the direction is to cease to be treated as mentioned in sub-paragraph (2) above and is to fall to be treated as comprised in the company's accumulated realised profits.
- (4) The Secretary of State shall not give a direction under this paragraph in relation to a relevant successor company at any time after the company has ceased to be wholly owned by the Crown.

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- (5) In exercising his power to give a direction under this paragraph, the Secretary of State shall have regard, in particular, to the provisions of Schedule 4 to this Act and to any provision contained in any restructuring scheme by virtue of any provision of that Schedule.
- (6) The consent of the Treasury shall be required for the giving of a direction under this paragraph.
- (7) In this paragraph—
- “called-up share capital” has the same meaning as in the ^[F10]Companies Act 2006];
- “net assets” has the meaning given by subsection (2) of ^[F11]section 831 of that Act; and
- “undistributable reserves” has the meaning given by ^[F12]subsection (4) of that section;
- and references in this paragraph, in relation to a company, to statutory accounts are references to accounts of that company prepared in respect of any period in accordance with the requirements of that Act, or with those requirements applied with such modifications as are necessary where that period is not an accounting reference period.

Textual Amendments

- F8** Words in Sch. 3 para. 6(1) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 196\(2\)](#) (with arts. 6, 11, 12)
- F9** Words in Sch. 3 para. 6(2) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 196\(3\)](#) (with arts. 6, 11, 12)
- F10** Words in Sch. 3 para. 6(7) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 196\(4\)\(a\)](#) (with arts. 6, 11, 12)
- F11** Words in Sch. 3 para. 6(7) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 196\(4\)\(b\)](#) (with arts. 6, 11, 12)
- F12** Words in Sch. 3 para. 6(7) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 196\(4\)\(c\)](#) (with arts. 6, 11, 12)

Temporary restrictions on borrowing of companies

- 7 (1) If articles of association of a relevant successor company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may be borrowed or raised during any period by the group to which that company belongs, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment.
- (2) For the purposes of this paragraph an alteration of the articles of association of a relevant successor company shall be disregarded if the alteration—
- (a) has the effect of conferring or extending any such power as is mentioned in sub-paragraph (1) above; and
- (b) is made at a time when that company has ceased to be wholly owned by the Crown.
- (3) In this paragraph “group”, in relation to a company, means that company and all of its subsidiaries taken together.

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Government lending to the companies

- 8
- (1) Subject to the following provisions of this Schedule, the Secretary of State may, with the approval of the Treasury, make loans of such amounts as he thinks fit to a relevant successor company.
 - (2) The Secretary of State shall not make a loan to a company under this paragraph except at a time when it is wholly owned by the Crown.
 - (3) Any loans which the Secretary of State makes under this paragraph shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.
 - (4) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are required by him for making loans under this paragraph.
 - (5) Any sums received under sub-paragraph (3) above by the Secretary of State shall be paid into the National Loans Fund.
 - (6) It shall be the duty of the Secretary of State as respects each financial year—
 - (a) to prepare, in such form as the Treasury may direct, an account of sums issued to him in pursuance of sub-paragraph (4) above and of sums received by him under sub-paragraph (3) above and of the disposal by him of the sums so issued or received; and
 - (b) to send the account to the Comptroller and Auditor General not later than the end of the month of August in the following financial year;and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it, and of his report, before each House of Parliament.

Treasury guarantees for loans made to companies

- 9
- (1) Subject to the following provisions of this Schedule, the Treasury may guarantee, in such manner and on such terms as they may think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums which are borrowed from a person other than the Secretary of State by any relevant successor company.
 - (2) The Treasury shall not give a guarantee under this paragraph except at a time when the company in question is wholly owned by the Crown.
 - (3) Immediately after a guarantee is given under this paragraph, the Treasury shall lay a statement of the guarantee before each House of Parliament; and immediately after any sum is issued for fulfilling a guarantee so given, the Treasury shall so lay a statement relating to that sum.
 - (4) Any sums required by the Treasury for fulfilling a guarantee under this paragraph shall be charged on and issued out of the Consolidated Fund.
 - (5) If any sums are issued in fulfilment of a guarantee given under this paragraph, the company whose obligations are so fulfilled shall make to the Treasury, at such times and in such manner as the Treasury may from time to time direct—
 - (a) payments of such amounts as the Treasury may so direct in or towards repayment of the sums so issued; and

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- (b) payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Treasury may so direct.
- (6) Any sums received under sub-paragraph (5) above by the Treasury shall be paid into the Consolidated Fund.

Limit on Government financial assistance for companies

- 10 The aggregate of—
- (a) any amounts outstanding by way of principal in respect of loans made by the Secretary of State under paragraph 8 above, and
 - (b) sums issued under paragraph 9 above in fulfilment of guarantees given under that paragraph,
- shall not exceed £3,000 million.

SCHEDULE 4

Section 21.

TAXATION PROVISIONS

PART I

CORPORATION TAX

Interpretation of Part I

- 1 (1) Subject to paragraph 24 below, in this Part of this Schedule “a relevant transfer” means any transfer in accordance with a restructuring scheme to a public-sector body of any property, rights or liabilities.
- (2) Subject to paragraph 24 below, in this Part of this Schedule—
- “the 1988 Act” means the ^{M10}Income and Corporation Taxes Act 1988;
 - [^{F13}“the Capital Allowances Act” includes, where the context admits, enactments which under the 1988 Act are to be treated as contained in the Capital Allowances Act,]
 - “fixture” has the same meaning as in [^{F14}Chapter 14 of Part 2 of the Capital Allowances Act];
 - “predecessor”, in relation to any relevant transfer, means the person from whom the property, rights or liabilities in question are transferred;
 - “public-sector body” means the Treasury or any Minister of the Crown, the Authority, a local authority, any company which is wholly owned by the Crown or any body which is not a company but is established by or under any enactment for the purpose of carrying out functions conferred on it by any enactment or subordinate legislation; and
 - “transferee”, in relation to any relevant transfer, means the person to whom the property, rights or liabilities are transferred;
- and this Part of this Schedule shall be construed as one with the 1988 Act.

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- (3) Subject to paragraph 7(8) below, in determining in relation to any transfer whether any such provision of this Schedule applies as is a provision applying if, by virtue of the coming into force of any relevant transfer, the predecessor is to be treated as having ceased to carry on any trade or the transferee is to be treated as having begun to carry one on, where—
- (a) the predecessor continues to carry on any trade or part of a trade after the coming into force of the transfer,
 - (b) the predecessor ceases, by virtue of any provisions of a restructuring scheme coming into force at the same time as the transfer, to carry on any trade or part of a trade which is not transferred to the transferee, or
 - (c) the transferee was carrying on any trade before the coming into force of the transfer,
- the trade or part of a trade which is continued or ceases to be carried on by the predecessor or, as the case may be, was being carried on shall for the purposes of that provision be treated in relation to any trade or part of a trade which is transferred by virtue of the transfer as a separate trade and, accordingly, shall be disregarded.
- (4) References in this Schedule to any provision of the 1992 Act shall have effect, in relation to times in any chargeable period beginning before 6th April 1992, as references to the corresponding enactment having effect in relation to that time.

Textual Amendments

- F13** Definition of “the Capital Allowances Act” in Sch. 4 para. 1(2) inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(1)(a)**
- F14** Words in Sch. 4 para. 1(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(1)(b)**

Marginal Citations

- M10** 1988 c. 1.

Chargeable gains: general

- 2 (1) For the purposes of the 1992 Act, where there is a relevant transfer, the transfer of the property, rights and liabilities to which it relates shall (subject to the following provisions of this Part of this Schedule) be deemed, in relation to the transferee as well as the predecessor, to be for a consideration such that no gain or loss accrues to the predecessor.
- (2) Section 28 of the 1992 Act (time of disposal or acquisition in pursuance of contract) shall have effect in relation to any disposal or acquisition in pursuance of an obligation imposed by virtue of paragraph 2(1)(g) of Schedule 2 to this Act as it would apply if the obligation were contained in a contract made at the time when the scheme containing the obligation comes into force.

^{F15}(3)

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Textual Amendments

F15 Sch. 4 para. 2(3) omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 70(c)

Chargeable gains: compensation and insurance money

- 3 (1) Subsections (4) and (5) of section 23 of the 1992 Act (adjustments where compensation or insurance money used for purchase of replacement asset) shall have effect in accordance with sub-paragraph (2) below where—
- (a) there is a relevant transfer such that any capital sum which has been or (but for the transfer) would have been received by the predecessor by way of compensation for the loss or destruction of any asset, or under a policy of insurance of the risk of the loss or destruction of any asset, becomes available to the transferee; and
 - (b) the transferee acquires any asset in circumstances where, if the predecessor had acquired it, the predecessor would be treated for the purposes of that section as having acquired it by the application of the whole or any part of that sum in replacement for the asset lost or destroyed.
- (2) In a case falling within sub-paragraph (1) above, subsection (4) or, as the case may require, subsection (5) of section 23 of the 1992 Act shall have effect as if the transferee and the predecessor were the same person except that—
- (a) it shall, subject to paragraph (b) below, be the transferee who shall be entitled as owner to make a claim for that subsection to be applied in relation to the transactions;
 - (b) any adjustment falling to be made under paragraph (a) of subsection (4) or, as the case may be, subsection (5) of that section shall have effect for the purposes only of the taxation of whichever of the predecessor and the transferee received the capital sum; and
 - (c) any adjustment falling, on a claim by the transferee, to be made under paragraph (b) of subsection (4) or, as the case may be, subsection (5) of that section shall have effect for the purposes only of the taxation of the transferee.
- (3) Sub-paragraph (2) above shall have effect for the purposes of any such adjustment as is mentioned in paragraph (c) of that sub-paragraph so as to require any residual or scrap value received by the predecessor to be treated as received by the transferee.

Chargeable gains: section 30 of the 1992 Act

- 4 Section 30 of the 1992 Act (tax-free benefits) shall not apply in any case where—
- (a) a reduction in the value of any asset, or
 - (b) the conferring of any tax-free benefit,
- results from any provision made by or under so much of any restructuring scheme as relates to a relevant transfer.

Chargeable gains: section 41 of the 1992 Act

- 5 Subject to paragraph 21 below, section 174(1) of the 1992 Act (which applies section 41 of that Act to cases where assets have been acquired without gain or

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loss) shall have effect, without prejudice to paragraph 2 above, where there has been a relevant transfer as if the property to which the transfer relates had been transferred to the transferee, and acquired by him, in relevant circumstances (within the meaning of that section).

Chargeable gains: options

- 6 (1) Where in the case of any relevant transfer the transferee becomes entitled, in consequence of the transfer, to any option granted to the predecessor, section 144 of the 1992 Act (options), so far as it requires an option to be treated as part of a larger transaction, shall have effect as if the option had originally been granted to the transferee for the consideration for which it was granted to the predecessor.
- (2) Where in the case of any relevant transfer the transferee is bound, in consequence of the transfer, by an option granted by the predecessor, that section, so far as it requires any option to be treated as part of a larger transaction, shall have effect as if the option had originally been granted by the transferee for the consideration for which it was granted by the predecessor and, if the case so requires, as if the transferee had entered into that transaction.
- (3) Sub-paragraph (2) above shall not apply in the case of any option in so far as any disposal made by the transferee by virtue of any exercise of that option before the time when the relevant transfer comes into force is one which falls, under section 28 of the 1992 Act (time of disposal etc.), to be treated as made before that time; and, accordingly, any disposal by the transferee which falls to be treated as so made and also, as mentioned in that sub-paragraph, to be treated as part of a larger transaction, shall be assumed for the purposes of the 1992 Act to be a disposal by the predecessor.
- (4) The preceding provisions of this paragraph shall not affect the rights and liabilities of the predecessor, or confer any rights or liabilities on the transferee, in respect of any adjustment falling to be made in consequence of the option in question having been differently treated, for the purposes of the taxation of the predecessor, in relation to a time before the conditions for its being treated as part of a larger transaction were satisfied.

Chargeable gains: roll-over relief

- 7 (1) Where, apart from this sub-paragraph—
- (a) the predecessor would be treated for the purposes of section 152 of the 1992 Act as having ceased, by virtue of the coming into force of any relevant transfer, to carry on any trade, and
 - (b) the transferee would be treated as having begun, on the coming into force of that transfer, to carry it on,
- that section shall have effect as if any assets to which the transfer relates which, for the purposes of that section and in accordance with sub-paragraph (8) below, would fall immediately before the transfer comes into force to be treated in relation to the period of ownership as assets that have been used to any extent by the predecessor for the purposes of the trade were, as at the time immediately after the coming into force of the transfer, to be treated in relation to the period of ownership as assets that the transferee has used to the same extent for the purposes of that trade.
- (2) Where any assets vest by virtue of a relevant transfer in the transferee—

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- (a) the predecessor shall not be entitled, at any time after the coming into force of the transfer, to make any claim under section 152 or 153 of the 1992 Act in respect of the acquisition by the predecessor of those assets; and
- (b) subject to sub-paragraph (3) below, the transferee shall not be treated for the purposes of either of those sections or section 154 of that Act as having applied the whole or any part of the consideration for any disposal in acquiring those assets by means of that transfer.

(3) Where, in the case of any relevant transfer—

- (a) the predecessor acquired any assets or any interest in any assets before the coming into force of the transfer,
- (b) the assets or interest vest or vests in the transferee by virtue of the transfer,
- (c) the acquisition is not one in respect of which the predecessor has made a claim under section 152 or 153 of the 1992 Act before the coming into force of the transfer,
- (d) after the coming into force of the transfer the transferee disposes of, or of an interest in, any other assets, and
- (e) the acquisition was such that, if the predecessor had been able to make and had made the disposal and obtained the consideration for it, the predecessor would have been regarded for the purposes of section 152 or 153 of that Act as having applied the consideration, or any part of it, in making the acquisition,

then, on a claim by the transferee, section 152 and, so far as necessary, section 153 of that Act shall have effect for the purposes of paragraph 2 above in relation to the acquisition as they would have effect if the acquisition had been made by the transferee and the assumptions specified in sub-paragraph (4) below applied.

(4) Those assumptions are—

- (a) that the acquisition was made by the application by the transferee of the consideration or, as the case may be, the part of it mentioned in sub-paragraph (3)(e) above;
- (b) that any period of ownership by the predecessor of any assets was a period of ownership of those assets by the transferee;
- (c) that any use by the predecessor of any assets for the purposes of any trade which was, at the time, being carried on by the predecessor had been use by the transferee for the purposes of that trade; and
- (d) that any trade for the purposes of which the transferee is assumed by virtue of paragraph (c) above to have used any asset was a trade which was being carried on by the transferee at the time.

(5) Where—

- (a) a held-over gain would, but for the provisions of section 154 of the 1992 Act, have been carried forward to a depreciating asset, and
- (b) that asset is transferred by a relevant transfer and immediately after the coming into force of that transfer is used by the transferee for the purposes of a trade carried on by him,

that section shall have effect as if the gain had accrued to, and the claim for it to be held over had been made by, the transferee and, accordingly, as if the transferee had acquired the depreciating asset at the time when the predecessor acquired it and as if the assumptions specified in sub-paragraph (4)(c) and (d) above applied.

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- (6) Expressions used in sub-paragraph (5) above which are also used in section 154 of the 1992 Act have the same meanings in that sub-paragraph as in that section.
- (7) Section 158 of the 1992 Act (extension of references to trade) shall have effect, subject to sub-paragraph (8) below, in relation to this paragraph as it has effect in relation to sections 152 to 157 of that Act.
- (8) For the purposes of this paragraph, any assets so far as used by the predecessor—
- (a) for the purposes of any part of a trade, or
 - (b) for the purposes of the whole or any part of any trade which is treated by virtue of subsection (8) of section 152 of the 1992 Act as forming a single trade with any one or more other trades,
- shall be treated as used for the purposes of every part of the trade carried on by the predecessor or, as the case may be, for the purposes of every part of every trade so carried on.

Chargeable gains: group transactions

- 8 (1) For the purposes of section 179 of the 1992 Act (company ceasing to be a member of a group) where by virtue of any relevant transfer any company—
- (a) ceases to be a member of the same group of companies as the predecessor, but
 - (b) becomes a member of the same group of companies as the transferee,
- that company shall not under that section be treated, in consequence of having so ceased, as at any time having sold, and immediately reacquired, any asset acquired from a company which is or has been a member of the former group.
- (2) Subject to sub-paragraph (3) below, where sub-paragraph (1) above applies, or but for subsection (2) of section 179 of the 1992 Act would apply, as respects any acquisition of any asset and the company that acquired the asset ceases to be a member of the same group of companies as the transferee, that section shall have effect as if—
- (a) that asset had been acquired from the transferee; and
 - (b) that company had been a member of the same group of companies as the transferee when it was so acquired;
- and where, for the purposes of that subsection, this sub-paragraph applies as respects more than one of a number of successive acquisitions of any asset, the fact that each is to be treated as an acquisition from the same person shall be disregarded.
- (3) Where—
- (a) any asset has been acquired by any company (“the leaving company”) from another company,
 - (b) both of those companies cease at the same time to be members of the same group of companies as the transferee, and
 - (c) those companies are associated companies both immediately before and immediately after that time,
- sub-paragraph (2) above shall not apply as respects the acquisition of the asset by the leaving company.
- (4) Expressions used in this paragraph and in section 179 of the 1992 Act shall have the same meanings in this paragraph as in that section.

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Chargeable gains: disposal of debts

- 9 (1) Where in the case of any relevant transfer—
- (a) any debt owed to the predecessor is transferred by virtue of the transfer to the transferee, and
 - (b) the predecessor would, apart from this sub-paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts),
- that Act shall have effect as if the transferee and not the predecessor were the original creditor for those purposes.
- (2) Subject to the following provisions of this paragraph, where in the case of any relevant transfer—
- (a) there is transferred by virtue of the transfer to the transferee either a debt owed to the predecessor or the rights and liabilities of the predecessor under any guarantee, and
 - (b) the transferred debt is, or any debt arising by virtue of those rights and liabilities would be, either—
 - (i) a right to the repayment of any amount outstanding as principal on a loan which is a qualifying loan for the purposes of either of sections 253 and 254 of the 1992 Act, or
 - (ii) a right to recover any amount paid under a guarantee for the repayment of such a loan or of any loan which would be such a loan but for section 253(1)(c) of that Act,
- those sections shall have effect as if the loan or, as the case may be, the guarantee and any payment by the predecessor under the guarantee had been made or given by the transferee and, accordingly, as if there had been no assignment of the right to recover the principal of the loan or of any right to recover an amount paid under the guarantee.
- (3) Where sub-paragraph (2) above applies, sections 253 and 254 of the 1992 Act and this paragraph shall have effect as if the companies which, in relation to times before the relevant transfer comes into force, are to be treated as having been members of the same group of companies as the transferee included the predecessor and any company which at any such time was a member of the same group of companies as the predecessor.
- (4) Where—
- (a) any right to the recovery of any amount is transferred by virtue of any relevant transfer,
 - (b) any amount outstanding in respect of that right is recovered at any time by the transferee or by a company in the same group of companies as the transferee, and
 - (c) that amount is such that, if that transfer had not come into force and the amount in question had been recovered by the predecessor or a company in the same group as the predecessor, a chargeable gain would be treated as having accrued to the predecessor or that company under section 253(5) to (8) or 254(9) or (10) of the 1992 Act,
- then a chargeable gain of the same amount shall be treated, instead, as having accrued at that time to the transferee, or as the case may be, the company in the same group as the transferee.

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- (5) Sub-paragraph (2) above shall not, in relation to any relevant transfer—
- (a) affect the allowable losses that have been or are to be treated, in pursuance of any claim made under section 253(3) or (4) or 254(2) of the 1992 Act before the coming into force of the transfer, as having accrued to the predecessor in respect of any amount; or
 - (b) entitle the transferee to make any claim under section 253(3) or (4) or 254(2) of that Act for the purpose of requiring any allowable loss to be treated as having accrued to the transferee in respect of any amount in respect of which an allowable loss to which paragraph (a) above applies has been or is to be treated as having accrued;
- and a relevant transfer shall be disregarded for the purposes of section 253(9) of the 1992 Act.
- (6) For the purposes of subsection (10) of section 253 of the 1992 Act, where there is a relevant transfer, any amount taken into account as mentioned in that subsection in the case of the predecessor shall be deemed also to have been so taken into account in the case of the transferee.
- (7) Section 253(13) and section 255(3) of the 1992 Act shall apply in relation to sub-paragraph (4) above for the purposes, respectively, of cases corresponding to those falling within subsections (7) and (8) of section 253 of that Act and cases corresponding to those falling within subsection (10) of section 254 of that Act, as they apply for the purposes of those subsections.

Chargeable gains: assets held before 6th April 1965

- 10 Schedule 2 to the 1992 Act (assets held on 6th April 1965) shall have effect in relation to any assets which vest in the transferee by virtue of a relevant transfer as if—
- (a) the predecessor and the transferee were the same person; and
 - (b) those assets, so far as they were in fact acquired or provided by the predecessor, were acquired or provided by the transferee.

Transfers of trading stock

- 11 (1) For the purposes of the Corporation Tax Acts if, in the case of any relevant transfer, any trading stock of the predecessor—
- (a) is vested in the transferee by virtue of the transfer, and
 - (b) falls, immediately after the time when the transfer comes into force, to be treated as trading stock of the transferee,
- then, for the purpose of computing the profits and gains both of the trade in relation to which it is trading stock immediately before that time and of the trade in relation to which it is trading stock after that time, sub-paragraph (2) below shall apply to the stock.
- (2) Where this sub-paragraph applies to any stock, that stock—
- (a) shall be deemed—
 - (i) to have been disposed of by the predecessor in the course of the trade that is carried on by the predecessor;
 - (ii) to have been acquired by the transferee in the course of the trade that is carried on by the transferee; and

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(iii) subject to that, to have been disposed of and acquired at the time when the transfer comes into force;

and

(b) shall be valued for the purposes of each of the trades mentioned in subparagraph (1) above as if the disposal and acquisition had been for a consideration which in relation to the predecessor would have resulted in neither a profit nor a loss being brought into account in respect of the disposal in the accounting period of the predecessor which ends with, or is current at, that time.

(3) In this paragraph “trading stock” has the same meaning as in section 100 of the 1988 Act.

Transfer of rights to receipts

12 Where by virtue of any relevant transfer there is transferred any right of the predecessor to receive any amount which is for the purposes of corporation tax—

- (a) an amount brought into account as a trading receipt of the predecessor for any accounting period ending before the time when the transfer comes into force, or
- (b) an amount falling to be so brought into account if it is assumed that the last such accounting period of the predecessor ended immediately before that time,

the transfer shall not require any modification of the way that amount has been and is to be treated in relation to the predecessor for those purposes or entitle any amount due or paid in respect of that right to be treated as a trading receipt of the transferee for any accounting period.

Transfer of liabilities

13 (1) If, by virtue of any relevant transfer, there is transferred any liability the amount of which is for the purposes of corporation tax—

- (a) an amount brought into account as deductible in computing the predecessor’s profits, or any description of the predecessor’s profits, for any accounting period ending before the time when the transfer comes into force, or
- (b) an amount falling to be so brought into account if it is assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before that time,

then that transfer shall not require any modification of the way that amount has been or is to be treated in relation to the predecessor for those purposes or entitle any amount due or paid in respect of that liability to be deductible in computing the transferee’s profits, or any description of the transferee’s profits, for any accounting period.

(2) Where the amount of any liability which in consequence of any relevant transfer falls to be discharged by the transferee is an amount which would (but for that and any other transfer) have fallen to be deductible in computing the predecessor’s profits, or any description of the predecessor’s profits, for any accounting period beginning with the coming into force of the transfer or at any subsequent time, that amount—

- (a) shall not be so deductible; but

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- (b) subject to sub-paragraph (3) below, shall be deductible in computing the transferee's profits to the same extent as if the transferee had become subject to the obligation in pursuance of which the liability arises or has arisen at the same time and for the same consideration, and otherwise on the same terms and in the same circumstances, as the predecessor;

and for the purposes of this sub-paragraph it shall be assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before the coming into force of that transfer.

- (3) For the purposes of corporation tax, where any relevant transfer has the effect that any liability falls to any extent to be discharged by the transferee instead of by the predecessor, the amounts deductible in computing the transferee's profits, or any description of the transferee's profits, for any accounting period shall not include any amount in respect of so much of that liability as falls to be so discharged unless it is an amount which (but for that and any other transfer) would have fallen to be deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period beginning or ending after the coming into force of that transfer.
- (4) The preceding provisions of this paragraph shall apply in relation to the deduction of charges on income against the total profits of the predecessor or transferee for any period as they apply in relation to the deduction of any amount in the computation for that period of the profits of the predecessor or, as the case may be, of the transferee.
- (5) For the purposes of Chapter II of Part VI of the 1988 Act (definition of distributions), where in the case of any relevant transfer any consideration given or treated as given in respect of a security relating to—
- (a) any liability, or
 - (b) the use of the principal to which any liability, being a liability to interest or an equivalent liability, relates,

would fall (apart from this sub-paragraph) to be regarded for those purposes as new consideration received by the predecessor, that consideration shall be treated instead, to the extent that it relates to so much of the liability as falls in consequence of the transfer to be discharged by the transferee and is not a liability to which sub-paragraph (1) above applies, as if it were new consideration received by the transferee.

Losses to be retained by the predecessor

- 14 (1) Notwithstanding anything in the preceding provisions of this Part of this Schedule or in Schedule 2 or 3 to this Act, the relevant unallowed tax losses of the predecessor—
- (a) shall not be capable, at any time after a relevant transfer comes into force, of being brought into account for any of the purposes of the Corporation Tax Acts in relation to the taxation of the transferee; but
 - (b) shall continue, to the same extent as before, to be treated after any relevant transfer as unallowed tax losses of the predecessor.
- (2) In sub-paragraph (1) above “relevant unallowed tax losses” means—
- (a) if the accounting period of the predecessor ends immediately before the coming into force of the relevant transfer, the unallowed tax losses of the predecessor as at the end of that period; and

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- (b) in any other case, any losses, expenses, charges or amounts which would be unallowed tax losses of the predecessor immediately before the coming into force of the relevant transfer, if an accounting period of the predecessor had ended at that time.
- (3) In this paragraph “unallowed tax losses” means any losses, expenses, charges or amounts which are tax losses within the meaning of section 400(2)(a), (b), (d) or (e) of the 1988 Act.

Section 35 of the 1988 Act

- 15 (1) Section 35 of the 1988 Act (charge on lease granted at an undervalue) shall not apply in the case of any lease the grant of which is effected by means of a relevant transfer.
- (2) Section 87 of the 1988 Act (taxable premiums) shall not apply where there is an amount which would have become chargeable in relation to any land but for subparagraph (1) above; and, accordingly, references to any such amount shall not be included in references in that section to the amount chargeable.
- (3) In this paragraph “lease” has the same meaning as in Part II of the 1988 Act.

Group relief

- 16 The existence of the powers of the Secretary of State under section 12 of and Schedule 2 to this Act shall not be regarded as constituting arrangements within the meaning of section 410 of the 1988 Act (arrangements for the transfer of a company to another group or consortium) or as constituting option arrangements for the purposes of paragraph 5B of Schedule 18 to that Act.

Special provision for successor companies

- 17 (1) Where—
 - (a) by virtue of any relevant transfer any liability for any loan made to the predecessor vests in a successor company, and
 - (b) at the coming into force of that transfer that company is wholly owned by the Crown,the vesting of liability for that loan in that company shall not affect any direction in respect of the loan given or having effect as if given by the Treasury under [F16section 755 of the Income Tax (Trading and Other Income) Act 2005] (income tax exemption for interest on foreign currency securities).
- (2) Any share issued by a successor company in pursuance of paragraph 2 of Schedule 3 to this Act shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to that company of an amount equal to the nominal value of the share.
- (3) Any debenture issued by a successor company in pursuance of paragraph 2 of Schedule 3 to this Act shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
 - (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
 - (b) wholly and exclusively for the purposes of the trade carried on by that company.

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- (4) If any debenture issued as mentioned in sub-paragraph (3) above includes provisions for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture.

Textual Amendments

- F16** Words in Sch. 4 para. 17(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 474](#) (with Sch. 2)

Leased assets

- 18 (1) For the purposes of section 781 of the 1988 Act (assets leased to traders and others), where the interest of the lessor or the lessee under a lease, or any other interest in an asset, vests in any person by virtue of a relevant transfer—
- (a) the transfer shall be treated as made without any capital sum having been obtained in respect of that interest by the predecessor or the transferee; and
 - (b) in a case where the interest is an interest under a lease, payments made by the predecessor under the lease before the coming into force of the transfer shall be deemed to have been made under that lease by the transferee.
- (2) Section 782 of the 1988 Act (deduction of payment under leases: special cases) shall not apply to any payments made—
- (a) under any lease granted for the purposes of the creation in accordance with a restructuring scheme of any leasehold interest, including, where effect has been given without the grant of a lease to the creation of a leasehold interest in accordance with such a scheme, any lease which for those purposes is deemed to have been granted; or
 - (b) under any lease granted by a person whose ability to grant that lease derives from the transfer to him in accordance with a restructuring scheme of the asset to which the lease relates.
- (3) In this paragraph “lease” and “asset” have the meanings given by section 785 of the 1988 Act and references to a leasehold interest are references to any such interest as may subsist under a lease.

Continuity in relation to capital allowances etc. where trade transferred

- 19 (1) Subject to the following provisions of this Part of this Schedule, where, apart from this paragraph—
- (a) the predecessor would be treated for the purposes of the Corporation Tax Acts as having ceased, by virtue of the coming into force of a relevant transfer, to carry on any trade, and
 - (b) the transferee would be treated as having begun, on the coming into force of that transfer, to carry it on,
- then the trade shall not be treated as permanently discontinued, nor a new trade as set up, for the purposes of the allowances and charges provided for by ^{F17}the Capital Allowances Act], but sub-paragraphs (2) to (4) below shall apply.

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- (2) Subject to sub-paragraphs (3) and (4) below, in a case falling within sub-paragraph (1) above—
- (a) there shall be made to or on the transferee in accordance with [^{F17}the Capital Allowances Act] all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on the predecessor; and
 - (b) the amount of any such allowance or charge shall be computed as if—
 - (i) the transferee had been carrying on the trade since the predecessor began to do so; and
 - (ii) everything done to or by the predecessor had been done to or by the transferee (but so that the relevant transfer itself, so far as it relates to any assets in use for the purpose of the trade, shall not be treated as giving rise to any allowance or charge).
- (3) For the purposes of the Corporation Tax Acts, only such amounts (if any) as may be specified in or determined in accordance with the restructuring scheme providing for a relevant transfer shall be allocated to the transferee in respect of—
- (a) expenditure by reference to which capital allowances may be made by virtue of sub-paragraph (2) above in relation to anything to which the transfer relates; and
 - (b) allowances which (apart from the allocation and irrespective of what are in fact the accounting periods of the predecessor) would, under [^{F18}section 260 of the Capital Allowances Act], be carried forward, in relation to anything to which the transfer relates, to an accounting period of the predecessor beginning immediately before the coming into force of that transfer.
- (4) Sub-paragraph (2) above shall affect the amounts falling to be taken into account in relation to the predecessor—
- (a) as expenditure by reference to which capital allowances may be made, or
 - (b) as an allowance carried forward under [^{F18}section 260 of the Capital Allowances Act],
- only so far as necessary to give effect to a reduction of any such amount by a sum equal to so much of that amount as is allocated to the transferee as mentioned in sub-paragraph (3) above.
- (5) Subject to sub-paragraph (6) below, the provisions of a restructuring scheme providing for the determination of any amount which for the purposes of sub-paragraph (3) above is to be allocated, in the case of any relevant transfer, to the transferee may include provision—
- (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;
 - (b) for any amount determined to be calculated by reference to such factors or to the opinion of such person as may be so described; and
 - (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.
- (6) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (5) above; and the consent of the transferee shall also be required for any such modification after the relevant transfer.

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Textual Amendments

- F17** Words in Sch. 4 para. 19(1)(2)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(2)
- F18** Words in Sch. 4 para. 19(3)(b)(4)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(3)

Capital allowances in cases where paragraph 19 does not apply

- 20 (1) Subject to paragraph 21 below, [F19the Capital Allowances Act] shall have effect in accordance with this paragraph in relation to any property if—
- (a) it is property to which a relevant transfer relates; and
 - (b) paragraph 19 above does not apply in relation to its transfer to the transferee; and in this paragraph “the relevant scheme”, in relation to property to which a relevant transfer relates, means the restructuring scheme that provides for that transfer.
- (2) Where—
- (a) [F20section 573 of the Capital Allowances Act (transfers treated as sales) as it applies for the purposes of Part 3 of that Act] applies on the relevant transfer in relation to the property, and
 - (b) the relevant scheme contains provision for the sale of that property which is deemed to occur by virtue of [F21that section] to be deemed for the purposes of the [F22that Act] to be at a price specified in or determined in accordance with the scheme,
- that deemed sale shall be treated as a sale at the price so specified or determined (instead of at the price determined in accordance with [F21that section] or any other provision of [F23that Act), sections 567 to 570 of that Act] shall not apply and that provision of the scheme shall have an equivalent effect in relation to the expenditure which the transferee is to be treated as having incurred in making the corresponding purchase.
- (3) Where the property is plant or machinery which would, for the purposes of [F19the Capital Allowances Act], be treated on the coming into force of the relevant transfer as disposed of by the predecessor to the transferee and the relevant scheme contains provision for the disposal value of that property to be deemed for the purposes of [F22that Act] to be of such amount as may be specified in or determined in accordance with the scheme—
- (a) that provision shall have effect, instead of [F24section 61(2) to (4), 72(3) to (5), 171, 196 or 423 of the Capital Allowances Act], for determining an amount as the disposal value of the property or, as the case may be, as the price at which any fixture is to be treated as sold;
 - (b) the transferee shall be deemed to have incurred expenditure of that amount on the provision of that property; and
 - (c) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee shall be deemed for the purposes of [F25sections 181(1) and 182(1)] of that Act to be incurred by the giving of a consideration consisting in a capital sum of that amount.
- (4) Where—

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- (a) the predecessor has been carrying on a trade of mineral extraction, and
 - (b) the relevant scheme contains provision for the amount specified in or determined in accordance with the scheme to be brought into account [^{F26}in accordance with sections 421 to 425 of the Capital Allowances Act (mineral extraction allowances: disposal receipts)] as a disposal receipt,
- that amount, instead of any other amount, shall be so brought into account as such a receipt in respect of the transfer of the property in accordance with the relevant scheme or of the predecessor's otherwise ceasing to use the property in consequence of that transfer.

(5) Where—

- (a) the acquisition of the property by the transferee in accordance with the relevant scheme would be a balancing event for the purposes of [^{F27}Part 4 of the Capital Allowances Act (agricultural buildings allowances)] if an election were made under [^{F28}section 382] of that Act, and
- (b) the relevant scheme contains provision for the price paid by the transferee to the predecessor for the property to be deemed, for the purposes of [^{F22}that Act], to be such amount as may be specified in or determined in accordance with the scheme,

such an election shall be deemed to have been made and the sale moneys related to that event shall be deemed for the purposes of [^{F29}section 385 of the Capital Allowances Act (calculation of balancing adjustment)] to be equal to that amount.

(6) Where—

- (a) the transfer of the property in accordance with the relevant scheme would be a [^{F30}disposal event for the purposes of Chapter 3 of Part 6 of the Capital Allowances Act (research and development allowances: allowances and charges)], and
- (b) the relevant scheme contains provision for an amount specified in or determined in accordance with the scheme to be treated for the purposes of [^{F31}that Chapter] as the disposal value of that property,

[^{F31}that Chapter] shall have effect accordingly.

(7) A disposal or acquisition in relation to which provision is made by the relevant scheme under any of sub-paragraphs (4) to (6) above shall not for any of the purposes of [^{F19}the Capital Allowances Act] be treated as, or as part of, a transaction falling within [^{F32}section 568(1)(a)] of that Act (sales between connected persons etc.).

(8) Sub-paragraphs (5) and (6) of paragraph 19 above shall apply in relation to any determination of any amount in accordance with any provision made by a restructuring scheme for the purposes of this paragraph as they apply for the purposes of a determination such as is mentioned in those sub-paragraphs.

Textual Amendments

F19 Words in Sch. 4 para. 20(1)(3)(7) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(4)(6)(a)(10)(a)**

F20 Words in Sch. 4 para. 20(2)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(5)(a)**

F21 Words in Sch. 4 para. 20(2)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(5)(b)(c)**

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- F22** Words in Sch. 4 para. 20(2)(b)(3)(5)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(5)(b)(6)(b)(8)(b)**
- F23** Words in Sch. 4 para. 20(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(5)(d)**
- F24** Words in Sch. 4 para. 20(3)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(6)(c)**
- F25** Words in Sch. 4 para. 20(3)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(6)(d)**
- F26** Words in Sch. 4 para. 20(4)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(7)**
- F27** Words in Sch. 4 para. 20(5)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(8)(a)**
- F28** Words in Sch. 4 para. 20(5)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(8)(a)**
- F29** Words in Sch. 4 para. 20(5) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(8)(c)**
- F30** Words in Sch. 4 para. 20(6)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(9)(a)**
- F31** Words in Sch. 4 para. 20(6)(b) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(9)(b)(c)**
- F32** Words in Sch. 4 para. 20(7) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(10)(b)**

Capital allowances in cases where interests created by restructuring scheme

- 21 (1) This paragraph shall apply where—
- (a) an interest or right in or in relation to any property (“the relevant property”) is retained, or under paragraph 24 below is deemed to be retained, by the predecessor following any relevant transfer; and
 - (b) any other interest or right in or in relation to that property vests by virtue of that transfer in the transferee;
- and in this paragraph references to the retained property are references to the interest or right mentioned in paragraph (a) above and references to the transferred property are references to the interest or right mentioned in paragraph (b) above.
- (2) Where—
- (a) the relevant transfer is one which is deemed to be made by virtue of paragraph 24(4) below, and
 - (b) the restructuring scheme in accordance with which it is made provides for this sub-paragraph to apply in relation to the relevant property,
- [^{F33}the Capital Allowances Act], sections 41 and 174 of the 1992 Act and paragraphs 19 and 20 above shall have effect for all purposes as if the interests or rights of the predecessor in or in relation to the relevant property had always been confined to the retained property and, accordingly, as if all allowances and charges made to or on the predecessor in relation to the relevant property, and anything done by or with respect to the predecessor in relation to the relevant property, had been made or done in relation to the retained property.
- (3) Where—

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- (a) any interest or right of any person is under sub-paragraph (2) above to be treated as having always been confined to a particular interest or right in or in relation to any property,
- (b) that property is a fixture, and
- (c) any of the requirements of [^{F34}Chapter 14 of Part 2 of the Capital Allowances Act] which did not in fact apply in relation to the property before the coming into force of the scheme in question would have had to be satisfied (if the interest had been so confined) for [^{F33}the Capital Allowances Act] to apply in relation to that property as [^{F35}it did] in fact apply before that time,

[^{F36}that Act] and the preceding provisions of this Part of this Schedule shall have effect as if those requirements had been satisfied.

(4) Where—

- (a) any interest or right of any person in or in relation to any property is under sub-paragraph (2) above to be treated as having always been confined to an interest under a lease (within the meaning of [^{F37}section 70 of the Capital Allowances Act]) of that property,
- (b) that property is [^{F38}plant or machinery] which is not so installed or otherwise fixed in or to a building or any other description of land as to become, in law, a part of that building or land, and
- (c) the restructuring scheme in accordance with which the relevant transfer relating to the [^{F38}plant or machinery] is made provides for this sub-paragraph to apply in relation to that property,

[^{F33}the Capital Allowances Act] and the preceding provisions of this Part of this Schedule shall have effect (with the provisions of sub-paragraph (2) above so far as they apply to the lease) as if the capital expenditure on the provision of that [^{F38}plant or machinery] was expenditure on [^{F38}plant or machinery] which that person was required to provide under the terms of the lease.

(5) Where sub-paragraph (2) above is not applied in relation to the relevant property, paragraph 5 above shall not apply but the capital allowances which shall be taken into account in pursuance of section 41 of the 1992 Act (restriction of losses by reference to capital allowances) on—

- (a) the disposal by the transferee of the transferred property or any part of it, or
- (b) the disposal by the predecessor of the retained property or any part of it,

shall include, so far as not already taken into account under that section or this sub-paragraph, any capital allowances (within the meaning of that section) which have been made or fall to be made to the predecessor in relation to the relevant property.

(6) In determining for the purposes of sub-paragraph (5) above whether or the extent to which any amount has been taken into account in pursuance of section 41 of the 1992 Act or that sub-paragraph, an amount so taken into account for the purpose of restricting any loss shall be assumed to be taken into account at the time when the loss accrues.

Textual Amendments

F33 Words in Sch. 4 para. 21(2)(3)(c)(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(11)(12)(b)(13)(b)

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- F34** Words in Sch. 4 para. 21(3)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(12)(a)**
- F35** Words in Sch. 4 para. 21(3)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(12)(c)**
- F36** Words in Sch. 4 para. 21(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(12)(d)**
- F37** Words in Sch. 4 para. 21(4)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(13)(a)**
- F38** Words in Sch. 4 para. 21(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(13)(c)**

Capital allowances for machinery and plant: connected persons

- 22 For the purposes of [F39Part 2 of the Capital Allowances Act] references in that Part to a transaction (however described) between connected persons within the meaning of section 839 of the 1988 Act shall not include references to any relevant transfer.

Textual Amendments

- F39** Words in Sch. 4 para. 22 substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 93(14)**

Exchange gains and losses

- 23 (1) This paragraph shall apply where—
- (a) in consequence of so much of any relevant transfer as relates to any qualifying asset, qualifying liability or currency contract, any accrual period ends, as regards that asset, liability or contract, with the time immediately before the coming into force of the transfer; and
 - (b) that time would not be a translation time apart from the transfer.
- (2) For the purposes of Chapter II of Part II of the ^{M11}Finance Act 1993 (exchange gains and losses) the exchange rate to be used in finding the local currency equivalent at the translation time mentioned in sub-paragraph (1) above of—
- (a) the basic valuation of an asset or liability,
 - (b) the nominal amount of a debt outstanding, or
 - (c) an amount of currency,
- shall (subject to sub-paragraph (3) below) be the same as that used at the translation time with which the accrual period so mentioned began.
- (3) Where the accrual period mentioned in sub-paragraph (1) above is one in relation to which section 127 of the Finance Act 1993 (accrual on debts whose amounts vary) applies, that section shall have effect as if the local currency equivalent, at the translation time with which that period ends, of the nominal amount of the debt then outstanding were an amount equal to the first amount (within the meaning of that section).
- (4) For the purposes mentioned in sub-paragraph (2) above, where the preceding provisions of this paragraph apply for finding the local currency equivalent of any valuation or amount at the time immediately before the coming into force of a

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relevant transfer, the equivalent found in accordance with those provisions shall also be deemed to be the local currency equivalent of that valuation or amount at the translation time which, in consequence of the transfer, falls immediately after the transfer comes into force.

- (5) This paragraph shall be construed as one with Chapter II of Part II of the ^{M12}Finance Act 1993.

Marginal Citations

M11 1993 c. 34.

M12 1993 c. 34.

Transfers of property in coal and lease back etc.

- 24 (1) Subject to the following provisions of this paragraph—
- (a) this Part of this Schedule shall have effect as if the transfer made by section 7(3) of this Act were made in accordance with a restructuring scheme coming into force on the restructuring date; and
 - (b) any provisions of this Part of this Schedule by virtue of which provision may be contained in the restructuring scheme in accordance with which a relevant transfer is made shall have effect, in relation to the transfer made by section 7(3) of this Act, as if they authorised the inclusion of that provision in any restructuring scheme which is to take effect on the restructuring date.
- (2) Subject to sub-paragraph (3) below, where any interests or rights are created, in accordance with any restructuring scheme, in or in relation to any property which—
- (a) is property to which section 7(3) of this Act applies,
 - (b) is retained, subject to those interests and rights, by the Corporation or any of its wholly-owned subsidiaries, or
 - (c) in accordance with a restructuring scheme is transferred, with effect from the time at or immediately before which the creation of the interests or rights takes effect, from the Corporation or one of its wholly-owned subsidiaries to any other person,
- those interests or rights, so far as they are created in favour of a public sector body shall be treated for the purposes of the Corporation Tax Acts and this Part of this Schedule as transferred from the Corporation or, as the case may be, its subsidiary to that body but not, except for the purposes of paragraphs 2, 4, 10, 15 and 18(1) above, as transferred by virtue of a relevant transfer.
- (3) Sub-paragraph (2) above shall not apply in relation to the creation in favour of the Corporation or any of its wholly-owned subsidiaries, in accordance with any restructuring scheme, of any interest or right in or in relation to—
- (a) property to which section 7(3) of this Act applies; or
 - (b) any other property in or in relation to which the Corporation or, as the case may be, that subsidiary owned some other interest or right immediately before the created interest or right comes into existence.
- (4) Where any restructuring scheme contains provision for the creation in favour of the Corporation or any of its wholly-owned subsidiaries of any interest or right in or in relation to any such property as is mentioned in sub-paragraph (3)(a) or (b) above, the only transfer which shall be deemed for the purposes of the Corporation Tax Acts

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and this Part of this Schedule to have taken place in accordance with that provision shall be a transfer (subject to the retention of the created interest or right) from the Corporation or that subsidiary of—

- (a) any interest or right in or in relation to that property which, by virtue of that scheme, is to be retained by the Authority; and
- (b) the interest or right in or in relation to that property which in accordance with the scheme is transferred to any other person, together with any interest or right which in accordance with that scheme is created in favour of another person.

(5) Where—

- (a) any interest or right is created in accordance with a restructuring scheme in or in relation to any property which has vested in any person (“the intermediary”) by virtue of a relevant transfer,
- (b) the intermediary and the person in favour of whom the right or interest is created are both public-sector bodies at the time when the interest or right is created, and
- (c) neither sub-paragraph (2) nor sub-paragraph (4) above applies to the creation of that interest or right,

the creation of that interest or right shall be treated for the purposes of the Corporation Tax Acts and this Schedule as a transfer in accordance with a restructuring scheme of the interest or right from the intermediary to the person in favour of whom it is created but not, except for the purposes of paragraphs 2, 4, 10, 15 and 18(1) above and this sub-paragraph, as a relevant transfer.

- (6) Where paragraph 10 above applies in the case of any transaction which by virtue of sub-paragraph (5) above is treated for the purposes of that paragraph as a relevant transfer, that paragraph shall have effect in relation to that transaction as if references to the predecessor were references to the person who is the predecessor in relation to the relevant transfer by virtue of which the property in question vested in the intermediary or, where there has been more than one such transaction, the person who by virtue of this sub-paragraph is deemed for the purposes of that paragraph to be the predecessor in the case of the earliest such transaction.
- (7) The creation in accordance with a restructuring scheme of any interest or right in any property in which different interests or rights subsist shall not be treated for the purposes of this Schedule as a transfer in accordance with that scheme of the created interest or right except so far as it falls to be so treated by virtue of the preceding provisions of this paragraph.
- (8) Subsections (1) and (2) of section 779 of the 1988 Act (sale and lease back) shall not apply where the liability of the transferor (within the meaning of that section) or of the person associated with that transferor is as a result of either—
 - (a) the creation in accordance with any restructuring scheme of any interest or right; or
 - (b) any other transaction or series of transactions for which such a scheme provides.
- (9) Section 28 of the 1992 Act and paragraph 2(2) above shall apply for determining for the purposes of this paragraph the time as from which the creation of any interest or right takes effect as they apply for the purpose of determining the time of the disposal and acquisition of any asset.

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Modifications of restructuring scheme

- 25 Where the effect of any restructuring scheme is modified in pursuance of any agreement which takes effect under paragraph 6(2) of Schedule 2 to this Act, the Corporation Tax Acts and this Part of this Schedule shall have effect as if—
- (a) the scheme originally made had been the scheme as modified; and
 - (b) anything done by or in relation to the person who without the modification became entitled or subject in accordance with the scheme to any property, rights or liabilities had, so far as relating to the property, rights or liabilities to which another person becomes entitled or subject in consequence of the modification, been done by or in relation to that other person.

PART II

STAMP DUTY AND STAMP DUTY RESERVE TAX

Transactions attracting exemptions

- 26 For the purposes of this Part of this Schedule a transaction is an exempt transaction if it is a transaction by virtue of which property, rights or liabilities are vested by or under Part I of this Act in a person who is a public-sector body within the meaning of Part I of this Schedule.

Stamp duty

- 27 (1) Subject to sub-paragraph (2) below, an exempt transaction shall not give rise to any charge to stamp duty except in so far as the charge to duty is on an instrument under this Act which is neither a restructuring scheme nor an instrument that has been certified to the Commissioners of Inland Revenue by the Secretary of State to have been made—
- (a) in pursuance of a restructuring scheme; or
 - (b) by virtue of any provision of this Act, for the purpose of modifying the effect of such a scheme.
- (2) No instrument which is certified as mentioned in sub-paragraph (1) above shall be taken to be duly stamped unless—
- (a) it is stamped with the duty to which it would, but for that sub-paragraph, be liable; or
 - (b) it has, in accordance with section 12 of the ^{M13}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped.
- (3) Stamp duty shall not be chargeable on any instrument by which the Treasury or the Secretary of State, or any nominee of the Treasury or the Secretary of State, transfers securities of a company to another company if—
- (a) at least one of those companies is a successor company; and
 - (b) each of the companies is wholly owned by the Crown at the time when the instrument is made.

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Marginal Citations

M13 1891 c. 39.

Stamp duty reserve tax

- 28 (1) No agreement for the purposes of, or for purposes connected with giving effect to—
- (a) so much of any restructuring scheme as relates to an exempt transaction, or
 - (b) any exempt transaction to which effect is given by the modification of any restructuring scheme,
- shall give rise to a charge to stamp duty reserve tax.
- (2) No agreement by which the Treasury or the Secretary of State, or any nominee of the Treasury or the Secretary of State, agrees to transfer securities of a company to another company shall give rise to a charge to stamp duty reserve tax if—
- (a) at least one of those companies is a successor company; and
 - (b) each of the companies is wholly owned by the Crown at the time when the instrument is made.

SCHEDULE 5

Section 22.

PENSIONS PROVISION IN CONNECTION WITH RESTRUCTURING

Interpretation of Schedule

- 1 (1) In this Schedule—
- “assets”, in relation to any existing scheme, means all the assets for the time being held for the purposes of the scheme by the trustees of the scheme, including every interest in property and right to which the trustees of the scheme are for the time being entitled, together with any liabilities, not being liabilities in respect of pension obligations, to which any entitlement of the trustees to any of the scheme’s assets is subject;
- “existing scheme” means any scheme having effect by virtue of regulations made under section 37 of the 1946 Act for purposes relating to pensions, gratuities or other like benefits;
- “pension”, in relation to any person, means a pension of any kind payable to or in respect of that person, including—
- (a) a lump sum, allowance or gratuity so payable; and
 - (b) a return of contributions, with or without interest or any other addition;
- “pension obligation” means any present, future or contingent obligation to make a payment which is an obligation to which pension rights of the person to whom it is owed give rise;
- “pension rights”, in relation to any person, includes all forms of right to or eligibility for the present or future payment of a pension to or in respect of that person and any right of allocation in respect of the present or future payment of a pension;
- “prescribed” means prescribed by regulations made by the Secretary of State;

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“the relevant enactments” means [^{F40}Part 4 of the Finance Act 2004 (pension schemes etc)] and Part III of the ^{M14}Pension Schemes Act 1993 (so far as relating to occupational pension schemes within the meaning of that Act).

- (2) References in this Schedule to a scheme being approved for the purposes of Part III of the ^{M15}Pension Schemes Act 1993 are references to its being included in a contracting-out certificate having effect for the purposes of that Part of that Act.

Textual Amendments

F40 Words in Sch. 5 para. 1(1) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **9(a)**

Marginal Citations

M14 1993 c. 48.

M15 1993 c. 48.

Modification of existing schemes

- 2 (1) The Secretary of State may by regulations make provision in relation to an existing scheme for it to continue in force notwithstanding the repeal by this Act of section 37 of the 1946 Act and of the enactments modifying that section.
- (2) Without prejudice to any powers conferred (so long as it remains in force) by section 37 of the 1946 Act, the Secretary of State may by regulations make such provision as he considers appropriate in connection with the provisions of this Act for modifying any existing scheme.
- (3) Without prejudice to the generality of the power conferred by sub-paragraph (2) above, the modifications of an existing scheme that may be made by regulations under this paragraph shall include modifications for any of the following purposes, that is to say—
- for conferring power on the Secretary of State or any other prescribed person to appoint trustees of the existing scheme or for requiring trustees to be appointed only in such manner and in such circumstances, or with the approval of the Secretary of State or such other person, as may be prescribed;
 - for enabling a person who is entitled to appoint trustees of the existing scheme to remove trustees of the scheme from office;
 - for requiring or enabling powers or duties of any person under the existing scheme to be exercisable or performed by or in accordance with the directions of such persons or in such circumstances, or to be exercisable or performed only in such manner or with the consent of such persons, as may be prescribed;
 - for providing that persons who have become entitled in respect of any period of employment to be participants in another prescribed scheme are not, as from such time as may be determined in accordance with the regulations, to be entitled in respect of that period of employment to be participants in the existing scheme;
 - for facilitating the transfer in prescribed circumstances to another scheme of—

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- (i) rights and liabilities under the existing scheme of any participant in the existing scheme who becomes a participant in the other scheme; or
 - (ii) the benefit of any arrangements under which participants in the existing scheme are relieved from any obligation to make contributions;
 - (f) for the apportionment and allocation to particular rights and liabilities of assets of the existing scheme and for the transfer of assets to other schemes in connection with any provision made by virtue of this Schedule;
 - (g) for restricting the persons who are to be able on and after the restructuring date to become participants in the existing scheme;
 - (h) for enabling expenses incurred in or in connection with the management or other administration of the existing scheme to be met out of the assets of the scheme;
 - (i) for securing that the existing scheme continues to be [^{F41}registered or] approved for the purposes of the relevant enactments;
 - (j) for enabling the existing scheme to be wound up (in whole or in part) in such circumstances as may be prescribed.
- (4) The modifications of an existing scheme that may be made by regulations under this paragraph shall include modifications making such provision as the Secretary of State considers appropriate for cases where either—
- (a) there are assets of the scheme representing a relevant surplus, or
 - (b) the assets of the scheme are insufficient for meeting pension obligations under the scheme.
- (5) The modifications mentioned in sub-paragraph (4) above may contain—
- (a) provision for a relevant surplus, and the assets representing it, to be apportioned between—
 - (i) the part (if any) of the surplus which is to be retained in a reserve (“an investment reserve”) as an asset of the scheme, and
 - (ii) the remainder (“the distributable part”) of the surplus;
 - (b) provision for the management of assets representing an investment reserve and for the manner in which any such assets are to be applied;
 - (c) provision for income accruing in respect of assets representing an investment reserve to be added to the reserve;
 - (d) provision for the manner in which assets representing the distributable part of a relevant surplus are to be applied; and
 - (e) provision, for the purposes of any provision under paragraphs (a) to (d) above, for modifying any decisions as to the way in which relevant surpluses determined as at times before the restructuring date, and the assets representing any such surpluses, are to be treated.
- (6) The provision as to the apportionment of any surplus or assets to an investment reserve that may be contained in modifications made by virtue of sub-paragraph (4) above shall not include any provision authorising the allocation to such a reserve of any part of a surplus determined as at a time after 31st March 1994, or of any assets representing any part of such a surplus, except where the allocation is made for making good amounts which (apart from any entitlement for which provision is made by virtue of sub-paragraph (7) below) would have been comprised in the value of the reserve if assets representing any part of it had not been applied from

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the reserve in meeting a deficiency that arose as at any time by reason of the other assets of the scheme having been insufficient as at that time for meeting pension obligations under the scheme.

- (7) The provision as to the application of assets representing an investment reserve that may be contained in modifications made by virtue of sub-paragraph (4) above shall include provision for the Secretary of State to become entitled where—
- (a) any such arrangements as are mentioned in sub-paragraph (9) below have been entered into in relation to pension obligations under the scheme in question, and
 - (b) the value of the assets representing the reserve exceeds the aggregate amount required for the purposes for which the reserve has been retained,
- to assets of the scheme representing the amount of the excess or, where those purposes have ceased, the value of the reserve.
- (8) The provision as to the application of assets representing the distributable part of a relevant surplus that may be contained in modifications made by virtue of sub-paragraph (4) above shall include provision for the Secretary of State to become entitled where—
- (a) the surplus is one determined as at a time on or after 31st March 1994, and
 - (b) any such arrangements as are mentioned in sub-paragraph (9) below have been entered into in relation to pension obligations under the scheme in question,
- to assets of the scheme representing no more than one half of the distributable part of that surplus.
- (9) The Secretary of State may, with the consent of the Treasury, enter into such arrangements as he may consider appropriate for guaranteeing or otherwise securing, in relation to any existing scheme, that the assets of the scheme are at all times sufficient for meeting the principal pension obligations and such other pension obligations under the scheme as are obligations to which he considers such arrangements should apply.
- (10) Sums required by the Secretary of State for making any payment in pursuance of any arrangements entered into by him under sub-paragraph (9) above shall be paid out of money provided by Parliament; and any sums received by him by virtue of sub-paragraph (7) or (8) above shall be paid into the Consolidated Fund.
- (11) Regulations under this paragraph may provide for—
- (a) any such apportionments or allocations as are mentioned in the preceding sub-paragraphs,
 - (b) any determination for the purposes of any existing scheme of the amount of, or of any part of, any surplus or excess or of the assets for the time being to be treated as representing the whole or any part of any such surplus or excess, and
 - (c) the determination of any other matter falling to be determined for the purposes of any provision relating, in the case of any such scheme, to the management or application of the assets representing any reserve or surplus,
- to be made as at such times, on such basis and by reference to the opinion of such persons as may be prescribed.
- (12) The power by regulations under this paragraph to modify an existing scheme shall not authorise the making of any modification which, in relation to the person entitled to

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it, adversely affects so much of any pension right as gives rise to any of the principal pension obligations under that scheme.

- (13) Before making any regulations under this paragraph in relation to an existing scheme the Secretary of State shall consult with the Corporation and the trustees for the time being of that scheme.
- (14) The power to make regulations under this paragraph shall not be exercisable at any time after the end of the period of two years beginning with the restructuring date; but this sub-paragraph shall be without prejudice to any regulations made before the end of that period or to anything done (whether before or after the end of that period) under any regulations so made.
- (15) In this paragraph “relevant surplus”, in relation to an existing scheme, means any surplus determined as at any time on or after 31st March 1992 of the assets of the scheme over the amounts required, as at that time, for meeting the obligations which (apart from the surplus) either have arisen or may arise as pension obligations under the scheme.
- (16) In this paragraph references to the principal pension obligations under an existing scheme are references to the following, that is to say—
- (a) so much of any pension obligation arising under the scheme as derives neither from modifications of the scheme made on or after the restructuring date nor from any relevant surplus;
 - (b) so much of any pension obligation arising under the scheme as represents the effect on any pension right giving rise to a pension obligation falling within paragraph (a) above of any decision before 1st September 1994 to appropriate any of a relevant surplus determined as at a time before 31st March 1994 to the payment of increases in any pensions payable in pursuance of that right; and
 - (c) so much of any pension obligation arising under the scheme as represents the effect on any pension right giving rise to a pension obligation falling within paragraph (a) or (b) above of any provisions of the scheme, as modified on or after the restructuring date, which require that right to be varied from time to time by reference to fluctuations in any level of prices in Great Britain.

Textual Amendments

F41 Words in [Sch. 5 para. 2\(3\)\(i\)](#) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **9(b)**

Replacement schemes for employees transferred to the private sector etc.

- 3 (1) The Secretary of State may by regulations make such provision as he thinks fit for securing that arrangements are made and implemented in relation to any existing scheme for enabling participants in that scheme to become participants in another pension scheme (“a new scheme”) which—
- (a) is established, under and in accordance with the regulations, by the Corporation or such other person as may be prescribed; and
 - (b) satisfies the statutory requirements by reference to that existing scheme.

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- (2) Where at any time the employment of any participant in any existing scheme in relation to which a new scheme has been established in pursuance of regulations under this Schedule is affected—
- (a) by the coming into force of any provisions of a restructuring scheme in accordance with which a person other than the Authority becomes his employer in place of the Corporation or one of its wholly-owned subsidiaries, or
 - (b) by a company's having ceased at any time on or after the restructuring date to be a subsidiary of the Corporation,
- the duty specified in sub-paragraph (3) below shall arise and be owed to the participant and to every person who at that time is a participant in that existing scheme in respect of his continuing employment with a person other than the Corporation or a subsidiary of the Corporation.
- (3) That duty is a duty to secure that the person to whom the duty is owed is afforded, and is entitled to exercise, an option of becoming a participant in the new scheme in respect of the employment to which he is transferred or, as the case may be, in respect of his continuation, after the time when the duty arises, in the employment in respect of which he is at that time participating in the existing scheme.
- (4) The duty owed to any person under sub-paragraphs (2) and (3) above shall be owed—
- (a) in a case where it is owed to a person who is transferred in accordance with a restructuring scheme from the employment of one person to the employment of another, by the person to whose employment he is transferred; and
 - (b) in any other case, by the person who, in relation to the employment to which the duty relates, is the employer of the person to whom the duty is owed.
- (5) For the purposes of this paragraph, where a company has ceased to be a subsidiary of the Corporation, the persons whose employment shall be treated as affected by the company's having ceased to be such a subsidiary shall be (and shall be confined to) the persons employed by that company at whichever is the later of the following times, that is to say—
- (a) the time when the company ceased to be a subsidiary of the Corporation; and
 - (b) the time when the company would so cease if any shares in the company which have at any time been transferred (whether in accordance with a restructuring scheme or otherwise) to any of the following persons, that is to say—
 - (i) the Treasury,
 - (ii) the Secretary of State,
 - (iii) a company wholly owned by the Crown, or
 - (iv) any nominee of the Treasury, the Secretary of State or a company wholly owned by the Crown,remained vested in the Corporation for so long after their transfer as they remain vested in any of the persons mentioned in sub-paragraphs (i) to (iv) above;
- and a person whose employment is affected by a company's having ceased to be a subsidiary of the Corporation shall be treated for the purposes of this paragraph as so affected only at whichever of the times mentioned in paragraphs (a) and (b) above is applicable in his case.

Status: Point in time view as at 03/02/2017.

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- (6) For the purposes of this paragraph a new scheme satisfies the statutory requirements by reference to an existing scheme (“the previous scheme”) if it contains all such provision as may be prescribed for the purposes specified in sub-paragraph (7) below, together with such other provision as may be prescribed.
- (7) The purposes mentioned in sub-paragraph (6) above are the purposes of securing—
- (a) that no person is able to participate in the new scheme as an employee unless he is a person falling within sub-paragraph (8) below;
 - (b) that the new scheme is and continues to be [^{F42}registered or] approved for the purposes of the relevant enactments;
 - (c) that the new scheme provides benefits to and in respect of participants in the new scheme which are no less advantageous than the benefits falling to be provided under the previous scheme as at the time immediately before the restructuring date; and
 - (d) that the pension rights under the previous scheme of any person who becomes a participant in the new scheme in respect of any employment are capable, at that person’s option, of being transferred so as to become rights under the new scheme.
- (8) A person falls within this sub-paragraph if he is—
- (a) one of the persons who by virtue of sub-paragraph (2) above is to be afforded the option of becoming a participant in the new scheme;
 - (b) a person the duties of whose employment with the same employer have changed so that he has ceased to be eligible to participate in a scheme in relation to which he has been entitled to protection under paragraph 4 below but has become a person who satisfies, by reference to his new duties, a condition of eligibility for participation in the new scheme; or
 - (c) a person with pension rights as a result of having been a participant in an existing scheme who, at any time on or after the restructuring date, enters the employment of a person any of whose employees are already, in respect of their employment with that person, participants in the new scheme.
- (9) Regulations under this paragraph prescribing the provision that must be contained in a scheme for it to satisfy the statutory requirements may provide for that provision to be determined by reference to such directions and certificates of the Secretary of State as may be given or issued to such persons, in such cases and in such manner as may be prescribed.

Textual Amendments

F42 Words in Sch. 5 para. 3(7)(b) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **9(b)**

Protection for rights under private sector schemes

- 4 (1) This paragraph applies to—
- (a) any scheme established in pursuance of regulations under paragraph 3(1) above; and
 - (b) any prescribed scheme the establishment of which appears to the Secretary of State to be, or to have been required, for the purposes of any protection to which any person is entitled by virtue of this paragraph.

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- (2) The Secretary of State may by regulations impose such restrictions and obligations as appear to him to be appropriate for the purpose of securing—
- (a) that no person entitled to protection in relation to a scheme to which this paragraph applies is placed in any worse position by reason of—
 - (i) any such amendment of the scheme as is made otherwise than in prescribed circumstances and results in benefits under the scheme being reduced, or contributions by employees being increased; or
 - (ii) any winding-up, in whole or in part, of the scheme;
 - (b) that no person entitled to protection in relation to a scheme to which this paragraph applies is prevented from continuing to participate in or acquire pension rights under the scheme by reason of any change of employer which does not affect his continuity of employment; and
 - (c) that no person entitled to protection in relation to a scheme to which this paragraph applies is prevented (in a case not falling within paragraph (b) above) from continuing to participate in or acquire pension rights under the scheme by reason of his having entered the employment of an employer who—
 - (i) opts to allow that person to continue, in respect of his employment with that employer, as a participant in that scheme; and
 - (ii) is able to exercise that option without the scheme ceasing to be [^{F43}registered or] approved for the purposes of the relevant enactments.
- (3) Regulations under this paragraph may make provision for securing that a person entitled to protection in relation to a scheme to which this paragraph applies who—
- (a) ceases, by reason of any change in the duties of his employment with the same employer, to be eligible to participate in that scheme, but
 - (b) by reason of the change becomes a person who satisfies, by reference to his new duties, a condition of eligibility for participation in another such scheme,
- is afforded the equivalent protection with respect to his participation in the other scheme as was previously secured, by virtue of this paragraph, with respect to his continuing participation in the scheme for which he has ceased to be eligible.
- (4) Regulations under this paragraph may make provision for securing that individuals with pension rights under a scheme to which this paragraph applies are allowed to become participants in another such scheme or to renew their participation in the same scheme where, in prescribed cases, they enter the employment of a person any of whose employees are already, in respect of their employment with that person, participants in the other scheme or, as the case may be, in the scheme under which those rights subsist.
- (5) Regulations under this paragraph may—
- (a) impose duties (whether as to the provision or amendment of any scheme to which this paragraph applies, the purchase of annuities, the making of payments or otherwise) on—
 - (i) any person who has been or is for the time being the employer of a person entitled to protection in relation to any such scheme; and
 - (ii) any persons by whom such an employer is or has been wholly owned;
- and

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- (b) provide for the duties imposed by the regulations on any person to be owed to such persons as may be prescribed, including persons other than the persons who are or have been employed by that person or, as the case may be, by a company wholly owned by him.
- (6) The following persons shall be entitled to protection in relation to any scheme to which this paragraph applies, except in so far as they cease to be so entitled under any of sub-paragraphs (7) to (9) below, that is to say—
- (a) every person who—
- (i) has exercised an option conferred by virtue of paragraph 3(2) above to become a participant in the scheme in respect of his employment; or
- (ii) is or has been a participant in the scheme in pursuance of any regulations made under this paragraph for the purpose of preserving the entitlement of that person to protection in relation to any other scheme to which this paragraph applies;
- and
- (b) every person who has pension rights under the scheme in consequence of the death of a person falling within paragraph (a) above;
- but a person shall not be entitled to protection by virtue of paragraph (b) above except as respects the pension rights in respect of which he falls within that paragraph.
- (7) A person entitled to protection in relation to a scheme to which this paragraph applies may elect, in such manner as may be prescribed, that he is to cease to be entitled to that protection.
- (8) Subject to sub-paragraph (9) below, if—
- (a) any person entitled by virtue of sub-paragraph (6)(a) above to protection in relation to any scheme to which this paragraph applies ceases to be in continuous employment or voluntarily withdraws from that scheme, and
- (b) the circumstances of that cesser or withdrawal are not such as may be prescribed,
- that person shall cease to be entitled to that protection except as respects pension rights which have accrued to him before the time when he so ceases or withdraws.
- (9) If any person entitled by virtue of sub-paragraph (6)(a) above to protection in relation to any scheme to which this paragraph applies continues to be a participant in that scheme after such a change of employment as brings the case within sub-paragraph (2)(c) above, that person shall cease to be entitled to that protection except as respects pension rights which have accrued to him before that change.
- (10) The reference in sub-paragraph (2) above to being placed in any worse position shall be construed, in relation to a person entitled to protection by virtue of sub-paragraph (6)(a) above who ceases, after the exercise of the option made available to him in pursuance of paragraph 3(2) above, to participate in or acquire pension rights under any scheme, as a reference to being placed in a position which is worse than his position immediately before he so ceases.
- (11) [F44Chapter I of Part XIV of the Employment Rights Act 1996, except section 218(6),] shall apply for the purposes of this paragraph as if this paragraph were contained in that Act.

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- (12) Regulations under this paragraph may provide that no account shall be taken for the purposes of this paragraph of any person's ceasing to be in continuous employment for such periods and in such circumstances as may be prescribed.
- (13) For the purposes of this paragraph a company is wholly owned by any person if its members do not include any person other than—
- (a) that person himself;
 - (b) companies wholly owned by that person; and
 - (c) persons acting on behalf of that person or a company wholly owned by that person.

Textual Amendments

- F43** Words in Sch. 5 para. 4(2)(c)(ii) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **9(b)**
- F44** Words in Sch. 5 para. 4(11) substituted (22.8.1996) by [1996 c. 18, ss. 240, 243](#), [Sch. 1 para. 64](#).

General provisions

- 5 (1) Every power of the Secretary of State to make regulations under this Schedule shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power of the Secretary of State to make provision by regulations under this Schedule shall include power—
- (a) to make different provision for different cases or different purposes; and
 - (b) to make such supplemental, incidental, consequential and transitional provision as the Secretary of State considers appropriate in relation to the provision contained in any such regulations.
- (3) The power conferred by sub-paragraph (2) above shall include—
- (a) power, for the purpose of giving effect to any option afforded by virtue of this Schedule, to provide for the modification of the contracts of employment of persons who become participants in a scheme established in pursuance of any such regulations; and
 - (b) power to require any dispute arising under or in relation to any regulations under this Schedule to be referred to such arbitration as may be prescribed.
- (4) Regulations under this Schedule may be made so as to have effect from a date prior to their making; but, in making any provision so to have effect, regulations under this Schedule shall not place any person other than—
- (a) the Secretary of State,
 - (b) the Authority,
 - (c) the Corporation or a wholly-owned subsidiary of the Corporation, or
 - (d) a company wholly owned by the Crown,
- in a worse position than he or it would have been in if the regulations had been made so as to have effect only from the date of their making.
- (5) Where any modification by virtue of this Schedule of any existing scheme confers any powers on the Secretary of State, those powers shall be treated as conferred for purposes that include securing that trustees and other persons concerned in the

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administration of the scheme exercise and perform their powers and duties in such manner as appears to the Secretary of State to take account, to the extent that he thinks appropriate, of the desirability—

- (a) of preventing the Secretary of State from incurring any liability under arrangements entered into as mentioned in paragraph 2(9) above;
 - (b) of keeping to a minimum the amount of any liability that is incurred under any such arrangements; and
 - (c) of managing the scheme so as to produce the largest practicable surpluses at the times as at which determinations of any relevant surpluses (within the meaning of paragraph 2 above) fall to be made.
- (6) Nothing in any enactment or rule of law shall prevent the Corporation, the trustees of any existing scheme, or any other person concerned in the administration of any such scheme, from giving the Secretary of State or such other person as may be prescribed all such advice or assistance as he may reasonably require for the purposes of making any determination, apportionment, allocation or transfer, or giving or issuing any direction or certificate, for which provision is made by or under this Schedule.

SCHEDULE 6

Section 43.

FURTHER MODIFICATIONS OF THE 1991 ACT

- 1 (1) Where—
- (a) a damage notice is received by a person with responsibility for subsidence affecting any land, and
 - (b) that person is neither the Authority nor the person who is or would be the responsible person in relation to the damage with respect to which the notice is given,
- the person who has received the notice shall, as soon as reasonably practicable after receiving it, forward the notice to the Authority.
- (2) Where—
- (a) a damage notice is received by the Authority (whether as a result of being forwarded under sub-paragraph (1) above or otherwise), and
 - (b) the Authority is not itself the person who is or would be the responsible person in relation to the damage with respect to which the notice is given,
- the Authority shall, as soon as reasonably practicable after receiving it, forward the notice to the person appearing to the Authority to be the person who is or would be the responsible person in relation to that damage.
- (3) The person to whom a notice is forwarded under this paragraph shall be deemed for the purposes of the 1991 Act—
- (a) to have been given that notice by the person whose notice it is; and
 - (b) to have received the notice within the period allowed by section 3 of the 1991 Act if it was or is deemed to have been so received by the person who forwarded it.
- (4) In this paragraph “damage notice” has the same meaning as in the 1991 Act.
- 2 Section 8(9) of the 1991 Act (grounds for refusing request for purposes connected with the execution of works by another) shall have effect in relation to times on

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- and after the restructuring date with the substitution for the reference to a remedial obligation of the Corporation in respect of any one or more neighbouring properties of a reference to the remedial obligation, in respect of any one or more such properties, of the responsible person or of any other person with responsibility for subsidence affecting land.
- 3 (1) In relation to times on or after the restructuring date, sections 10(2)(c), 16(1)(b) and (7)(a), 17(1)(a) and 33(1) of the 1991 Act (which make provision where certain matters appear to the Corporation) shall have effect, in each case, with the omission of the words “to the Corporation”.
- (2) Accordingly, section 16 of that Act shall have effect in relation to such times—
- (a) with the substitution, in subsection (1), for “it appears to them as mentioned in paragraph (b) above” of “the condition mentioned in paragraph (b) above is satisfied”; and
- (b) with the omission, in subsection (7)(b), of the words “to them”, wherever occurring.
- 4 The reference in section 15 of the 1991 Act (recipients of depreciation payments) to another person who is liable to make good any damage shall not, in relation to any responsible person, include any person who is liable to make good that damage by virtue only of being jointly and severally liable with the responsible person in accordance with section 44(1) of this Act.
- 5 In relation to any regulations made on or after the restructuring date sections 25(1) and 29(1) of the 1991 Act shall each have effect with the substitution for the first reference to the Corporation (consultation as to regulations) of a reference to such persons with responsibility for subsidence affecting land as it appears to the Secretary of State to be appropriate to consult.
- 6 Section 43(1) of this Act shall require the second reference to the Corporation in section 29(1) of the 1991 Act and the references to the Corporation in sections 33(2) to (6) and 36 of that Act to be construed, in relation to subsidence damage of which there is a possibility or which appears likely to occur or might occur, as references to the person who would be the responsible person in relation to that damage if it did occur.
- 7 On and after the restructuring date sections 37, 38, 40 to 42 and 44(1) of the 1991 Act (which make general provision with respect to claims) shall have effect with the substitution for references to the Corporation, or to any of its licensees, of references to any person with responsibility for subsidence affecting any land.
- 8 On and after the restructuring date sections 46 and 47 of the 1991 Act (which require the giving of notice of certain operations) shall have effect in relation to any underground coal-mining operations as a result of which any land may be affected by subsidence—
- (a) with the substitution for references to the Corporation of references to the person who would be the responsible person in relation to any subsidence damage to that land if such damage were to result from the operations; and
- (b) as if anything done by the Corporation under that section before the restructuring date had been done by that person.
- 9 The provisions of section 44 of this Act, so far as they relate to obligations, liabilities or rights of responsible persons, shall also apply as respects obligations, liabilities or rights by virtue of paragraph 6 or 8 above of persons who would be responsible

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- persons if subsidence damage occurred; and, for that purpose, references in that section to subsidence damage shall be construed accordingly.
- 10 On and after the restructuring date, section 49 of the 1991 Act (which makes provision with respect to the making of reports by the Corporation) shall have effect with the substitution for references to the Corporation of references to the Authority; and, accordingly, any requirement imposed by that section on the Corporation shall have effect on and after that date as if imposed on the Authority.
- 11 Paragraph 1(1) of Schedule 2 to the 1991 Act (payment of depreciation where Corporation satisfied that the relevant interest was subject to a mortgage) shall have effect in relation to payments falling to be made on or after the restructuring date with the omission of the words “the Corporation are satisfied that”.
- 12 Section 43(1) of this Act shall not apply to the references to the Corporation in Schedule 7 to that Act (transitional provisions) so far as they have effect in relation to times before the restructuring date.

SCHEDULE 7

Section 49.

RETAINED INTERESTS IN COPYHOLD LAND

PART I

CLAIMS IN RESPECT OF RETAINED INTERESTS

Application of Part I

- 1 (1) This Part of this Schedule shall apply where, at any time on or after the restructuring date, a notice of a retained interest is given by any person in pursuance of an invitation contained by virtue of—
- (a) subsection (3)(d) of section 50 of this Act, or
 - (b) subsection (3)(b) of section 3 of the 1975 Act,
- in a notice for the purposes of section 49 of this Act or, as the case may be, in a notice under that section 3.
- (2) In this Part of this Schedule—
- (a) a notice of a retained interest in pursuance of such an invitation as is mentioned in sub-paragraph (1) above is referred to as a “retained interest notice”; and
 - (b) the person who gives such a notice is referred to, in relation to that notice, as “the claimant”.
- (3) Where any of the Corporation’s rights under section 49 of this Act in relation to any land have been transferred in accordance with a restructuring scheme to any other person—
- (a) the persons to whom a retained interest notice relating to that land may be given for the purposes of this Schedule shall be the Corporation, the Authority or that other person; and
 - (b) a retained interest notice given to the Corporation or the Authority shall be—

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- (i) forwarded by the Corporation or Authority, as soon as reasonably practicable after being received, to that other person; and
- (ii) treated for the purposes of this Schedule as if given to that other person when it was given to the Corporation or Authority.

Form of claim

- 2 The claimant shall furnish, together with the retained interest notice, adequate proof of his title to the interest at the time when he gives the notice.

Acceptance or rejection of claim

- 3 (1) Within the period of three months beginning with the date on which the person to whom it is given receives a retained interest notice, or within such longer period as may be agreed between that person and the claimant, that person shall serve on the claimant either—
- (a) a notice in the prescribed form accepting the claimant’s title to the retained interest and acknowledging that an obligation under this Part of this Schedule to pay compensation in respect of it has arisen or, as the case may be, will arise if the right in question is exercised; or
 - (b) a notice rejecting the claimant’s retained interest notice.
- (2) In this Part of this Schedule—
- (a) a notice under sub-paragraph (1)(a) above is referred to as an “acceptance notice”;
 - (b) a notice under sub-paragraph (1)(b) above is referred to as a “rejection notice”; and
 - (c) a reference, in relation to an acceptance notice, to the accepted interest is a reference to the interest to which that notice relates.
- (3) Where a person serves an acceptance notice or a rejection notice, he shall at the same time send a copy of that notice to the Authority.
- (4) A person who fails to comply with any of the requirements of this paragraph as to the service of notices, or as to the sending of a copy of any notice to the Authority, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) A rejection notice shall specify the ground or grounds on which the claimant’s retained interest notice is rejected and, where the matters specified concern only a part of the land to which the retained interest notice relates, shall identify the part in question.
- (6) Subject to paragraph 5 below, where, after the receipt by any person of a retained interest notice, an acceptance notice is served in respect of the retained interest concerned, the service of that acceptance notice shall be a valid ground for the service of a rejection notice in respect of any other retained interest notice which—
- (a) is received by any person after the service of that acceptance notice; and
 - (b) relates to any of the land in which the accepted interest subsists.
- (7) In sub-paragraph (1) above “prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument; and a statutory instrument containing

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regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Payment of costs of establishing claim

- 4 Subject to paragraph 5 below, as soon as practicable after any person has served an acceptance notice on a claimant, that person shall pay to the claimant any reasonable legal expenses incurred by the claimant for the purposes of—
- (a) establishing his ownership of the retained interest to which the acceptance notice relates; and
 - (b) giving the retained interest notice by virtue of which the acceptance notice came to be served.

Challenge of rejection notice

- 5 (1) A claimant who—
- (a) has served a retained interest notice relating to any land (“the relevant land”), and
 - (b) is aggrieved by the service on him of a rejection notice relating to his retained interest notice, other than a rejection notice served in pursuance of an order under this paragraph,
- may, within the period of three months beginning with the date of service of the rejection notice, make an application to the county court for an order directing the withdrawal of the rejection notice and the service of an acceptance notice in respect of the retained interest which he claims.
- (2) On an application under this paragraph, the court may direct that, in addition to the applicant and the person who served the rejection notice, the Authority and any person other than the claimant who has given a retained interest notice relating to the whole or any part of the relevant land shall be made a party to the application unless, in the case of a person other than the claimant who has given a retained interest notice—
- (a) a rejection notice has already been served in respect of that retained interest notice; and
 - (b) the time within which that person might have made an application under this paragraph in respect of that rejection notice has expired without such an application having been made.
- (3) On an application under this paragraph the court shall determine whether—
- (a) the applicant,
 - (b) any other party to the application who contests the applicant’s claim, or
 - (c) any other person (whether a party to the application or not) on whom an acceptance notice relating to the whole or any part of the relevant land has been served,
- was, at the time when he gave his retained interest notice, entitled to a retained interest in the whole or any part of the relevant land and shall order the service (if it has not already been done) of an acceptance notice on that person or, if more than one of them were so entitled to a retained interest in the same piece of land, on that one of them whose retained interest notice was given first.
- (4) An order under sub-paragraph (3) above may contain such provisions as the court considers appropriate—

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- (a) for securing that every party to the application other than—
 - (i) the person to whom the retained interest notice in question was given, and
 - (ii) any person on whom an acceptance notice has been, or is ordered to be, served,is or has been served with a rejection notice; and
 - (b) where it appears to the court that an acceptance notice has been served which should not have been served, for securing—
 - (i) that the notice is cancelled; and
 - (ii) that the person who served the notice brings the cancellation to the attention of the person who, if the notice had not been cancelled, would have been the person with an actual or contingent entitlement to compensation under this Part of this Schedule in respect of the accepted interest.
- (5) If, in accordance with sub-paragraph (4) above, the court orders the cancellation of an acceptance notice, it shall be conclusively presumed for the purposes of sections 49 and 50 of this Act, and for the purposes of this Schedule, except this paragraph—
- (a) that the person on whom the acceptance notice was served did not have a retained interest in the relevant land at the time when he served his retained interest notice; and
 - (b) that a rejection notice was served in respect of that retained interest notice.
- (6) Nothing in paragraph 4 above shall affect the power of the court on an application under this paragraph (or in any subsequent proceedings) to make such order as to costs as it thinks fit; and any such order may make such modifications, if any, of a person's obligation under paragraph 4 above as appear to the court to be just in the light of the other provisions as to costs which are contained in the order.

Compensation

- 6 (1) Subject to paragraphs 7 and 11 below, where—
- (a) any person has begun to exercise any right which is a right of his under section 49(1) of this Act,
 - (b) that right is a right in relation to any coal or coal mine comprised in or lying under any land in which a retained interest subsists, and
 - (c) a right to compensation has not arisen under this sub-paragraph in respect of the exercise of the right by a person whose right it was previously,
- the person who has begun to exercise the right shall pay compensation in respect of that interest.
- (2) Compensation under sub-paragraph (1) above shall be calculated by reference to the consideration which, on the date on which the exercise of the right referred to in sub-paragraph (1) above began, would have been appropriate, as between a willing grantor and a willing grantee, on a conveyance of that interest (so far as it subsists in the land subject to the right) to the person who exercises that right.
- (3) Where a person who has become liable for any compensation under this paragraph ceases to be a person who is entitled to exercise the right in question, his so ceasing shall affect neither his liability nor the amount of the compensation.

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- (4) Where compensation is due to any person under sub-paragraph (1) above there shall be paid to him, in addition to the compensation, any reasonable valuation expenses incurred by him for the purpose of ascertaining the value, at the date referred to in sub-paragraph (2) above, of the retained interest to which the compensation relates.
- (5) Any dispute as to the amount of any compensation under this paragraph, or as to the amount of any valuation expenses to be paid in accordance with sub-paragraph (4) above, shall be determined by the [^{F45}Upper Tribunal].
- (6) Sub-paragraph (3) above shall be subject to so much of any restructuring scheme as makes provision for the transfer to any other person, as from the restructuring date or any subsequent date, of the Corporation's liabilities by virtue of this paragraph; and sub-paragraph (4) above shall be without prejudice to the powers of the [^{F46}Upper Tribunal], by virtue of sub-paragraph (5) above, in respect of the costs of proceedings before the Tribunal.
- (7) References in this Part of this Schedule, in relation to any right under subsection (1) of section 49 of this Act, to a person with a contingent entitlement to compensation under this Part of this Schedule are references to any person who (subject to paragraph 7(3) below) would be entitled to any such compensation if the person with that right began to exercise it.

Textual Amendments

- F45** Words in Sch. 7 para. 6(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 259** (with Sch. 5)
- F46** Words in Sch. 7 para. 6(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 259** (with Sch. 5)

Persons entitled to compensation

- 7 (1) Subject to paragraph 5 above, it shall be conclusively presumed that a person on whom a rejection notice has been served has neither an actual nor, as the case may be, a contingent entitlement to compensation under this Part of this Schedule in respect of the interest to which the notice relates.
- (2) The person having the right to receive compensation under this Schedule in respect of a retained interest to which an acceptance notice relates shall be the person on whom that notice was served, notwithstanding that he may not own the retained interest at the time when the compensation becomes due; and, accordingly, that right shall devolve on his death and may be assigned in like manner as the right of a creditor under an unsecured debt.
- (3) Notwithstanding anything in sub-paragraph (2) above if, at the time when compensation becomes due in respect of a retained interest, any compensation is paid in good faith to the person who produces the acceptance notice relating to that interest, the surrender of that notice by way of receipt for the compensation shall constitute an adequate discharge to the person paying the compensation of his liability to pay that compensation, without any further proof that the person producing the acceptance notice is entitled in accordance with this Part of this Schedule to receive the compensation.

Status: Point in time view as at 03/02/2017.

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Agreements with respect to compensation

- 8 (1) If at any time—
- (a) after an acceptance notice has been served in respect of a retained interest, and
 - (b) before the date on which compensation becomes due in respect of that interest,
- any person (“the relevant person”) enters into an agreement in that behalf with another person, being the person with the contingent entitlement to any such compensation, then, on payment to that other person of such consideration as may be agreed, the relevant person shall be relieved of any contingent liability under this Part of this Schedule in respect of that retained interest.
- (2) Where any such agreement as is mentioned in sub-paragraph (1) above is entered into, sub-paragraph (3) of paragraph 7 above shall apply in relation to the payment of the consideration agreed as it applies in relation to a payment of compensation at the time referred to in that sub-paragraph (3).
- (3) Without prejudice to sub-paragraphs (1) and (2) above, at any time after an acceptance notice has been served in respect of a retained interest, the person who served it shall cease to be entitled to acquire by agreement that interest or any other retained interest in any coal or coal mine comprised in or lying under any of the land in which the accepted interest subsists.

Notice of compensation

- 9 (1) Where any person—
- (a) makes a payment of compensation under this Part of this Schedule, or
 - (b) enters into any agreement for the purposes of paragraph 8 above,
- he shall, as soon as reasonably practicable after making the payment or entering into the agreement, send particulars of the payment or agreement to the Authority.
- (2) The particulars to be sent to the Authority in pursuance of sub-paragraph (1) above shall include particulars identifying—
- (a) the person to whom the payment is made or, as the case may be, the parties to the agreement; and
 - (b) the interest in respect of which the payment is made or, as the case may be, in respect of which the contingent liability extinguished by the agreement arose.
- (3) A person who fails to comply with any of the requirements of this paragraph as to the sending of any particulars to the Authority shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

PART II

OTHER PROVISIONS

Saving for rights to dispose of retained interests

- 10 Subject to paragraph 8(3) above and to any provision applied by paragraph 12 below, neither—

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- (a) the publication on or after the restructuring date of any notice for the purposes of section 49 of this Act, nor
 - (b) any publication before that date of a notice under section 3 of the 1975 Act,
- shall prevent any person from acquiring by agreement any retained interest in any coal or coal mine comprised in or lying under land in the area to which the notice relates.

Pre-1975 Act orders under the Mines (Working Facilities and Support) Act 1966

11 (1) If—

- (a) by virtue of an order under section 1 of the ^{M16}Mines (Working Facilities and Support) Act 1966 or of any agreement, the Corporation was entitled on 31st August 1975 to work any coal or to use any coal mine in which a retained interest subsisted at that time,
- (b) that entitlement has continued throughout the period since that date as an entitlement of the Corporation or, at different times, of the Corporation and a person to whom the Corporation's rights have been transferred in accordance with a restructuring scheme, and
- (c) the Corporation or such a person is still so entitled,

then section 49 of this Act shall not apply with respect to that coal or coal mine or to any retained interest therein except in relation to matters unconnected with the exercise of that entitlement.

(2) Where—

- (a) a notice given on or after the restructuring date for the purposes of section 49 of this Act specifies any area, and
- (b) at the time when the notice was published, the conditions mentioned in sub-paragraph (1) above were satisfied in relation to any coal or coal mine comprised in, or lying under, land in that area,

so much of that land as consists of that coal or coal mine shall be deemed to be excluded from that area.

(3) If notice of a retained interest is given in pursuance of a relevant invitation at a time when the conditions mentioned in sub-paragraph (1) above were satisfied in relation to any coal or coal mine comprised in or lying under the land in which that interest subsists, then for the purpose of determining the amount of any compensation under this Schedule, that interest, so far as it relates to that coal or mine, shall be treated as no longer subsisting.

(4) In sub-paragraph (3) above “a relevant invitation” means an invitation contained by virtue of—

- (a) subsection (3)(d) of section 50 of this Act, or
- (b) subsection (3)(b) of section 3 of the 1975 Act,

in a notice for the purposes of section 49 of this Act or, as the case may be, in a notice under section 3 of that Act.

Marginal Citations

M16 1966 c. 4.

Status: Point in time view as at 03/02/2017.

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Transitional provisions

- 12 (1) On and after the restructuring date, the following provisions (which broadly correspond to the provisions of Part I of this Schedule), that is to say—
- (a) subsections (4) to (6) and (8)(b) of section 3 of the 1975 Act, and
 - (b) Schedule 2 to that Act, other than paragraph 10,
- shall have effect, notwithstanding their repeal by this Act and instead of Part I of this Schedule, in relation to any case where a notice of a retained interest was given before the restructuring date in pursuance of an invitation contained, by virtue of subsection (3)(b) of that section, in any notice under that section.
- (2) On and after the restructuring date, subsection (8)(a) of section 3 of the 1975 Act (which makes provision equivalent to sub-paragraph (2) of paragraph 11 above) shall have effect, notwithstanding its repeal by this Act and instead of that sub-paragraph, for the purpose of determining the area to which any notice under that section relates.
- (3) Sub-paragraph (1) above shall be subject to so much of any restructuring scheme as makes provision for the transfer to any other person, as from the restructuring date or any subsequent date, of the Corporation's rights and liabilities by virtue of the provisions having effect in accordance with that sub-paragraph.

SCHEDULE 8

Section 52.

AMENDMENTS OF THE OPENCAST COAL ACT 1958

Introduction

- 1 The ^{M17}Opencast Coal Act 1958 shall be amended as follows.

Marginal Citations
M17 1958 c. 69.

Power to make compulsory rights orders

- 2 (1) In subsection (1) of section 4 (compulsory rights order)—
- (a) for the words “the Corporation”, in each place where they occur, there shall be substituted “ the Coal Authority ”;
 - (b) for the words “compulsorily acquire” there shall be substituted “ confer ”; and
 - (c) for the words “the whole or part of any land on which they desire” there shall be substituted “ the whole, or such part as (subject to the confirmation of the Secretary of State) the Coal Authority thinks fit, of any land on which the applicant for the order desires ”.
- (2) After that subsection there shall be inserted the following subsections—
- “(1A) The Coal Authority shall not make a compulsory rights order except on the application of a person who satisfies that Authority—

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- (a) that he is either a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to that Authority for a licence under Part II of that Act is pending; and
 - (b) that he has served notice in the prescribed form of the application for the order on every person who is known to him to be a person who would, in relation to the order applied for, be directly concerned.
- (1B) Subject to the provisions of section 5 of this Act, the rights conferred by an order made on such an application as is mentioned in subsection (1A) of this section shall be conferred on the applicant and his successors so as to be exercisable for the purposes only of—
- (a) operations which the applicant or, as the case may be, any such successor is authorised to carry out by virtue of being a licensed operator within the meaning of the Coal Industry Act 1994; and
 - (b) operations which are incidental to operations falling within paragraph (a) above (including operations carried out at times when the authorisation for the operations falling within that paragraph is not in force)."
- (3) In subsection (5) of that section (which has effect in relation to Scotland for applying enactments relating to compulsory purchase and giving effect to Part I of Schedule 2 to the Act), after the first "to the" there shall be inserted " Scottish "; and subsection (8) of that section shall cease to have effect.

Effect of orders

- 3 (1) In subsection (2) of section 5 (effect of order), for "The Corporation" there shall be substituted " The person on whose application the order has been made ".
- (2) In subsections (4) and (5) of that section—
- (a) for the words "the Corporation", in the first place where they occur in each subsection, there shall be substituted " the person entitled to the rights conferred by the order "; and
 - (b) for the words "the Corporation", in the second and third places where they occur in each subsection, there shall be substituted " that person ".
- (3) After subsection (5) of that section there shall be inserted the following subsections—
- "(5A) Subject to subsection (5B) of this section, the rights conferred by a compulsory rights order—
- (a) shall be exercisable by a successor of the original applicant for the order only where the Coal Authority has transferred to that successor the entitlement to exercise the rights conferred by the order; but
 - (b) where the Coal Authority has so transferred them, shall not, at any time after the transfer, be exercisable by any person in his capacity as the original applicant or as a previous successor of that applicant;
- and references in this Act to the person entitled to the rights conferred by a compulsory rights order are references to the person who is for the time being the person by whom those rights are exercisable in accordance with section 4(1B) of this Act and this section.
- (5B) Where at any time after an application for a compulsory rights order has been made and before any order made on that application is confirmed—

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- (a) any person becomes the successor of the original applicant for the order and notifies that fact—
 - (i) if no order has been made on the application, to the Coal Authority, or
 - (ii) if such an order has been made, to the Secretary of State,
- and
- (b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,

the provisions of this Act and of any enactment applied by this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.

- (5C) The Coal Authority or, as the case may be, the Secretary of State—
- (a) shall make a transfer under subsection (5A) of this section by giving written notice of the transfer to each of the persons who, in consequence of the transfer, is to cease to be, or is to become, entitled to the rights conferred by the order;
 - (b) may by notice to the successor make any modifications of a compulsory rights order which are necessary in consequence only of the making of a transfer under subsection (5A) of this section; and
 - (c) may make a decision to proceed in accordance with subsection (5B) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.”

Limitations on effect of orders

- 4 In section 7 (rights not affected by order)—
- (a) in subsection (2)(c)—
 - (i) for “authorisation” there shall be substituted “ opencast planning permission ”;
 - (ii) for “the Corporation have” there shall be substituted “ the person entitled to the rights conferred by the compulsory rights order has ”; and
 - (iii) for the words from “under” to “applied” there shall be substituted “ under the provisions of the Act of 1990, applied ”;
 - (b) in subsection (3)(a)—
 - (i) for “made by the Corporation and” there shall be substituted “ to which the person entitled to the rights conferred by the compulsory rights order is or is deemed to be a party and which is ”; and
 - (ii) for “the Corporation are” there shall be substituted “ that person is ”;
- and
- (c) for subsections (8) and (9) of that section there shall be substituted—
 - “(8) In this section—
 - “statutory water undertakers” means—

Status: Point in time view as at 03/02/2017.

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- (i) in England and Wales, the National Rivers Authority, a water undertaker or a sewerage undertaker; and
- (ii) in Scotland, a water authority within the meaning of the Water (Scotland) Act 1980;

“local enactment”—

- (i) in England and Wales, means any local statutory provision within the meaning of the Water Industry Act 1991; and
- (ii) in Scotland, has the same meaning as in the Water (Scotland) Act 1980;

and, in the application of this section to Scotland, for any reference to the Act of 1990 there shall be substituted a reference to the Town and Country Planning (Scotland) Act 1972.”

Limited compulsory rights orders

- 5 In subsection (3)(b) of section 8 (modification of section 5(4))—
- (a) for the words “the Corporation”, in the first and second places where they occur, there shall be substituted “ the person entitled to the rights conferred by the order ”; and
 - (b) for the words “the Corporation”, in the third place where they occur, there shall be substituted “ that person ”.

Provisions as to other minerals, timber, crops, etc.

- 6 In subsections (1) to (3) of section 10 (rights in relation to other minerals, timber, crops, etc.)
- (a) for the words “the Corporation”, in the first and last places where they occur in each subsection, there shall be substituted “ the person entitled to the rights conferred by the order ”; and
 - (b) for the words “the Corporation”, wherever else they occur in each subsection, there shall be substituted “ that person ”.

Registration of orders in Scotland

- 7 In section 11(4) (registration in the register of sasines)—
- (a) for the words “the Corporation”, in the first place where they occur, there shall be substituted “ the person on whose application it was made ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ the person entitled immediately before it ceases to have effect to the rights conferred by the order ”.

Removal of chattels from land

- 8 (1) In subsection (1) of section 12 (rights to remove chattels from land affected by compulsory rights order), for “the Corporation” there shall be substituted “ the person entitled to the rights conferred by the order ”.
- (2) In subsection (2) of that section, for “the Corporation” there shall be substituted “ the person who served the notice ”.

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- (3) After that subsection there shall be inserted the following subsection—
- “(2A) Where the person who has served a notice under subsection (1) of this section ceases, without exercising any power under subsection (2) of this section, to be the person entitled to the rights under the compulsory rights order, that notice shall cease to have effect for the purposes of this section.”
- (4) In subsection (3) of that section—
- (a) for “the Corporation cause” there shall be substituted “ any person causes ”;
 - (b) for “the last preceding subsection” there shall be substituted “ subsection (2) of this section ”;
 - (c) for the words “the Corporation”, in the second and third places where they occur, there shall be substituted “ that person ”; and
 - (d) for the words “the Corporation”, in the fourth place where they occur, there shall be substituted “ the person who caused the chattel to be removed ”.
- (5) In subsection (4) of that section, for the words “the Corporation”, in each place where they occur, there shall be substituted “ the person who makes the sale ”.

Apparatus of statutory undertakers

- 9 Section 13 (effect in relation to apparatus of statutory undertakers of opencast planning permission) shall cease to have effect.

Agricultural tenancies in England and Wales

- 10 In section 14(6) (arbitration under section 12 of the ^{M18}Agricultural Holdings Act 1986 in cases where opencast planning permission has been granted)—
- (a) for “the Corporation are” there shall be substituted “ the person with the benefit of the opencast planning permission is ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ that person ”.

Marginal Citations

M18 1986 c. 5.

Agricultural tenancies in Scotland

- 11 (1) In subsection (6)(a) of section 14A (modification of section 22(2) of the ^{M19}Agricultural Holdings (Scotland) Act 1991), for “the British Coal Corporation” there shall be substituted “ a person who is a licensed operator within the meaning of the Coal Industry Act 1994 or whose application for a licence under Part II of that Act is pending ”.
- (2) In subsection (8) of that section (arbitration under section 13 of that Act of 1991)—
- (a) for “the Corporation are” there shall be substituted “ the person with the benefit of the opencast planning permission is ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ that person ”.

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Marginal Citations

M19 1991 c. 55.

Suspension of rights of way

- 12 (1) In subsection (1) of section 15 (orders for suspension of right of way)—
- (a) in paragraph (a), for “the Corporation apply” there shall be substituted “ any person applies ”; and
 - (b) in the words after paragraph (b), for “the Corporation may also apply to the Secretary of State” there shall be substituted “ that person may also apply to the Coal Authority ”.
- (2) In subsection (2) of that section—
- (a) for “Secretary of State shall not make such an order” there shall be substituted “ Coal Authority shall not make an order under this section ”;
 - (b) in paragraph (a), for “is granted” there shall be substituted “ has been applied for or granted ”; and
 - (c) in paragraph (b), for the words from the beginning to “the Corporation” there shall be substituted—
 - “(aa) it is satisfied that the applicant—
 - (i) is a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to the Coal Authority for a licence under Part II of that Act is pending; and
 - (ii) has complied with the requirements of section 15A of this Act before submitting the application;
 - and
 - (b) it is also satisfied—
 - (i) that a suitable alternative way will be made available by the applicant”.
- (3) For subsection (3) of that section there shall be substituted the following subsections—
- “(3) An order under this section—
- (a) shall not have effect unless confirmed by the Secretary of State; and
 - (b) where it has been confirmed, shall have effect (with such modifications as the Secretary of State may in confirming it determine) so as to suspend the right of way to which it relates with effect (subject to section 15A(10) and (11) of this Act) from such date as may be determined by the Secretary of State and specified in the order as confirmed.
- (3A) Where at any time after an application for an order under this section has been made and before any order made on that application is confirmed—
- (a) any person becomes the successor of the original applicant for the order and notifies that fact—
 - (i) if no order has been made on the application, to the Coal Authority, or

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- (ii) if such an order has been made, to the Secretary of State,
and
- (b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,
the provisions of this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.
- (3B) The Coal Authority or, as the case may be, the Secretary of State may make a decision to proceed in accordance with subsection (3A) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.”
- (4) In subsection (4) of that section, after paragraph (b) there shall be inserted “or
- (c) he is satisfied that it is appropriate to do so on account of any failure on the part of the person on whose application the order was made to comply with any of the requirements of section 15A(10) of this Act.”
- (5) In subsection (5) of that section, for the words from “include” to “to”, in the second place where it occurs, there shall be substituted “ not be made except where such conditions for the making of the order are imposed or such other provision is included in the order as may ”.
- (6) After subsection (5) there shall be inserted the following subsection—
- “(5A) For the purposes of subsection (5) above a local planning authority may enter into an agreement with any applicant for an order under this section as to the steps to be taken by that person or any of his successors for securing the reconstruction of the way in question; and such an agreement shall have effect, so far as it relates to steps to be taken by any successor of the applicant, as if that successor had been a party to it and was bound by it to the same extent as the applicant.”

Supplementary provisions about suspension of rights of way

- 13 (1) In subsection (1) of section 15A (supplementary provisions in relation to the suspension of rights of way)—
- (a) for the words from the beginning to the words “the Corporation”, in the first place where they occur, there shall be substituted—
- “(1) Before any person submits an application to the Coal Authority for an order under section 15 of this Act, that person”;
- (b) in paragraph (a), for “the Corporation are” there shall be substituted “ that person is ”;
- (c) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) whether the applicant is proposing to make available any alternative way and, if he is, what the alternative is; and”;
- (d) paragraph (c) (notice to specify objection procedure) and the word “and” immediately preceding it shall be omitted.

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- (2) After that subsection there shall be inserted the following subsection—
- “(1A) As soon as reasonably practicable after making an order under section 15 of this Act the Coal Authority shall submit the order to the Secretary of State for confirmation and publish a notice in the prescribed form identifying the right of way in question and stating—
- (a) that the Coal Authority has made an order that will suspend the right of way in connection with the working of coal by opencast operations and has submitted the order for confirmation to the Secretary of State;
 - (b) whether the applicant for the order is to make any alternative way available and, if he is, what the alternative is;
 - (c) that opencast planning permission has been applied for or, as the case may be, granted; and
 - (d) that objections to the confirmation of the order may be made in writing to the Secretary of State within such time, not being less than 28 days from the publication of the notice, as may be specified.”
- (3) In subsection (2) of that section, after “subsection (1)” there shall be inserted “ or (1A) ”.
- (4) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The Secretary of State shall not confirm an order under section 15 of this Act unless he thinks fit and—
- (a) he is satisfied that the notice required by subsection (1A) above has been published in relation to that order and that the requirements of subsection (5) below have been satisfied in relation to that notice;
 - (b) the period within which objections may be made in accordance with that notice has expired; and
 - (c) the opencast planning permission has been granted.”
- (5) In subsection (4) of that section—
- (a) after “subsection (1)” there shall be inserted “ or (1A) ”; and
 - (b) after “the application” there shall be inserted “ or, as the case may be, the order ”.
- (6) In subsection (5) of that section—
- (a) for the words from the beginning to “the Secretary of State” there shall be substituted—

“(5) Where any person is required under subsection (1) or (1A) above to publish any notice, he shall also—”;
 - (b) in paragraph (a), for the words from “of the right” onwards there shall be substituted (after sub-paragraph (ii))— “ of the submission of the application or, as the case may be, of the making of the order; ”
 - (c) in paragraph (b), for “their notice under subsection (1) above” there shall be substituted “ the notice under subsection (1) or (1A) above ”; and
 - (d) in paragraph (c), for the words from “their” onwards there shall be substituted “ the matters contained in the notice under subsection (1) or (1A) above. ”
- (7) Subsection (6) of that section shall cease to have effect.

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- (8) In subsection (7) of that section—
- (a) for “make” there shall be substituted “ confirm ”; and
 - (b) after “authority” there shall be inserted “ other than a parish or community council or parish meeting as is mentioned in subsection (5)(a) above ”.
- (9) In subsection (8) of that section, for “make” there shall be substituted “ confirm ”.
- (10) In subsection (9) of that section—
- (a) the word “Corporation’s” shall be omitted;
 - (b) for “the Secretary of State” there shall be substituted “ the Coal Authority ”; and
 - (c) at the end there shall be inserted “ ; and this subsection shall be without prejudice to the power of the Secretary of State, by virtue of subsection (3) of that section, to make further modifications when confirming the order. ”
- (11) In subsection (10) of that section—
- (a) for the words from the beginning to “publish” there shall be substituted—
 - “(10) A confirmed order under section 15A of this Act shall not have effect at any time before the person on whose application the confirmed order was made has published”;
 - (b) for “has been made” there shall be substituted “ has been confirmed ”;
 - (c) for “comes” there shall be substituted “ is to come ”; and
 - (d) for “shall serve a like notice and a copy of the order” there shall be substituted “ has served a like notice and a copy of the order and of such a map ”.
- (12) In subsection (11) of that section, for paragraphs (a) and (b) there shall be substituted “ in the manner specified in subsection (2) in relation to notices for the purposes of subsection (1) above; and an order that fails, by virtue of subsection (10) above, to come into operation on the date specified in the order shall come into operation on the date of the last publication required by virtue of this subsection. ”

Orders conferring rights for drainage or water supply purposes

- 14 (1) In subsections (1) and (2) of section 16 (orders for drainage and water supply purposes), for the words from “granted” to “compulsorily”, in each subsection, there shall be substituted “ applied for or granted, the Coal Authority, on an application in accordance with subsection (2A) below, may, by means of an order made by that Authority and confirmed by the Secretary of State, confer on the person with the benefit of the permission ”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The Coal Authority shall not make an order under this section except on the application of a person who—
 - (a) is the person with the benefit of the opencast planning permission or, where the permission has been applied for but has not been granted, the person who will have the benefit of that permission;
 - (b) satisfies that Authority that he is either a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to that Authority for a licence under Part II of that Act is pending; and

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- (c) also satisfies that Authority that he has served notice in the prescribed form of the application for the order on every owner, lessee and occupier of the other land (except tenants for a month or any period of less than a month);
and an order made before the opencast planning permission has been granted shall not be confirmed until after it has been granted.”
- (3) In subsection (3) of that section—
- (a) for “authorising the compulsory purchase of” there shall be substituted “conferring”;
 - (b) after “was” there shall be inserted “applied for or”; and
 - (c) for “acquired” there shall be substituted “conferred”.
- (4) For subsection (4) of that section (effect of order), including that subsection as substituted for Scotland by subsection (9) of that section, there shall be substituted the following subsection—
- “(4) Any right conferred by an order under this section shall be exercisable by, or by any person authorised by—
- (a) a person who—
 - (i) is for the time being in occupation of the land specified in accordance with subsection (3) of this section in the order;
 - (ii) is the person on whom the right was conferred; and
 - (iii) was in occupation of that land when it was conferred;
 - or
 - (b) a person who is for the time being in occupation of the land by virtue of the transfer to him either—
 - (i) by, or with the written approval of, the Coal Authority, or
 - (ii) in any other case described in the order,
 of any interest or right which, at the time when the right was conferred under this section, was vested in a person who became entitled to exercise it by virtue of paragraph (a) above;
- and a right conferred by an order under this section (whether or not conferred while the person on whom it was conferred was in occupation of the land) shall, in the case of land in England and Wales, be treated as an easement appurtenant in perpetuity to that land, and, in the case of land in Scotland, be recorded in the Register of Sasines or as the case may be registered in the Land Register of Scotland by the person on whom the right is conferred.”
- (5) In subsection (4A) of that section (which for England and Wales provides for the application of compulsory purchase legislation), for the words from the beginning to “as if” there shall be substituted—
- “(4A) For the purposes of any order conferring rights exercisable under this section on any land in England and Wales—
- (a) Parts II to IV of the Acquisition of Land Act 1981 shall apply as they would apply in relation to a compulsory rights order in which that land is comprised, and section 29 of that Act shall apply accordingly but with the omission of subsections (4) and (5); and
 - (b) the Compulsory Purchase Act 1965 shall have effect as if—

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- (i) the conferring of those rights were the compulsory acquisition of those rights by the person on whom they are conferred; and
 - (ii)”.
 - (6) After subsection (4A) of that section there shall be inserted the following subsections—
 - “(4B) Where at any time after an application for an order under this section has been made and before any order made on that application is confirmed—
 - (a) any person becomes the successor of the original applicant for the order and notifies that fact—
 - (i) if no order has been made on the application, to the Coal Authority, or
 - (ii) if such an order has been made, to the Secretary of State, and
 - (b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,
the provisions of this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.
 - (4C) The Coal Authority or, as the case may be, the Secretary of State may make a decision to proceed in accordance with subsection (4B) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.”
 - (7) For subsection (5) of that section there shall be substituted the following subsection—
 - “(5) In relation to any order conferring rights exercisable under this section as regards any land in Scotland Parts I, III and IV of Schedule 1 to the Scottish Acquisition of Land Act (and the enactments incorporated with that Act) shall apply as they would apply in relation to a compulsory rights order in which that land is comprised, and section 4(5) of this Act shall apply accordingly but as if the section did not relate to paragraphs 3 and 4 of Schedule 2 to this Act.”
 - (8) In subsection (6) of that section, for “a compulsory purchase order made by virtue of” there shall be substituted “ an order made and confirmed under ”.
 - (9) After subsection (7) of that section there shall be inserted the following subsection—
 - “(7A) Subsections (2) and (3) of section 12 of the Acquisition of Land Act 1981 (statutory tenants etc. and ecclesiastical property) shall have effect in relation to the service of a notice under this section as respects any land in England and Wales as they have effect in relation to the service of a notice under that section.”
 - (10) Subsection (9) of that section shall cease to have effect.

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Annual compensation

- 15 (1) In subsection (1) of section 17 (general provisions as to annual compensation)—
- (a) the words “by the Corporation” shall be omitted; and
 - (b) in paragraph (b), after “falls” there shall be inserted “ wholly or partly ”.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.”
- (3) In subsection (2) of that section, for “in the Corporation” there shall be substituted “ in the Coal Authority or the person entitled to rights conferred by the order ”.
- (4) In subsection (3) of that section—
- (a) at the beginning there shall be inserted the words “ Subject to subsection (3A) of this section, ”; and
 - (b) the words “by the Corporation” shall be omitted.
- (5) After that subsection there shall be inserted the following subsections—
- “(3A) Where—
- (a) any compensation is payable for any year by virtue of this section in respect of any holding, and
 - (b) the amount of that compensation falls to be calculated in accordance with section 18 of this Act by reference to the market value of rights which, if the compulsory rights order were not in force, could not be conferred for that year or any part of it except by or with the consent of one or more persons who are included in the persons directly concerned but do not fall within subsection (3) of this section,
- the entitlement to that compensation shall be apportioned, according to the extent to which those rights could not be conferred for that year or part of a year without their participation or consent, between those persons and any person falling within that subsection.
- (3B) Subject to subsection (3C) of this section, the persons entitled under subsection (3A) of this section to a share of any compensation shall include persons whose participation in or consent to the conferring of any right would be required if the right were conferred at some time after the beginning of the year or part of a year in question; and any apportionment under subsection (3A) of this section shall take account of the length of the period for which any person is, during that year or part of a year, a person without whose participation or consent any right could not be conferred.
- (3C) No person shall be entitled under subsection (3A) of this section to any share of any compensation in respect of any such easement or right as might give rise to an entitlement to compensation under section 31 of this Act.”
- (6) Subsection (4) of that section shall cease to have effect.
- (7) Sub-paragraphs (5) and (6) above shall not apply in relation to any compulsory rights order confirmed before the restructuring date.

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Calculation of compensation

16 In relation to any compulsory rights order confirmed on or after the restructuring date the following section shall be substituted for section 18, that is to say—

“18 Calculation of compensation undersection 17.

- (1) The compensation payable for any year in respect of a holding to which section 17 of this Act applies shall be a sum equal to the annual borrowing cost for that year of the market value of the rights conferred by the compulsory rights order in relation to the holding.
- (2) For the purposes of this section the market value of any rights conferred by a compulsory rights order shall be equal to the amount which, as at the date of entry, would (apart from the order) represent the fair market price, as between willing and independent parties, for the grant of those rights by a person entitled to grant them and for the period for which the order is to have effect.
- (3) In calculating for the purposes of this section the fair market price for the grant of any rights, due allowance shall be made for any entitlement to compensation which may arise, otherwise than by virtue of section 17, under any of the provisions of this Act.
- (4) For the purposes of this section the annual borrowing cost for any year of any amount (“the market price”) is the aggregate sum which would fall to be paid in that year by way of payments of interest and re-payments of capital if the market price had been borrowed on the date of entry on terms which—
 - (a) required interest to be paid and capital to be repaid by way of the relevant number of equal annual instalments; and
 - (b) provided for interest on outstanding capital to become due immediately before the time for the payment of each instalment, at an annual rate equal, as at the entry date, to the rate prescribed under section 35(8) of this Act;and in this subsection “the relevant number” means the number of years for which, when it was confirmed, the compulsory rights order was to have effect.
- (5) Nothing in section 17 of this Act or this section shall confer any entitlement to compensation in respect of the annual borrowing cost of—
 - (a) any amount representing the value of any person’s interest in coal, or
 - (b) any amount representing the value of any opportunity arising by virtue of an interest or right in or in relation to any land to obtain or make use of any rights to win, work or get any coal.
- (6) Where the period for which a compulsory rights order is to have effect is extended under this Act, section 17 of this Act and this section shall have effect in relation to the additional period as if the rights conferred for that period had been conferred by a new compulsory rights order.”

17 Sections 19 and 20 (additional annual compensation and special compensation for cost of removal) shall not have effect in relation to any compulsory rights order confirmed on or after the restructuring date.

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Terminal compensation

- 18 In section 21(1) (terminal compensation), for “by the Corporation in respect of that holding” there shall be substituted “ in respect of that holding by the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order. ”

Compensation in respect of agricultural land

- 19 (1) In section 23A (compensation with a view to furthering the resumption of agriculture)—
- (a) for the words “sections 18 and 19”, wherever they occur, there shall be substituted “ section 17 ”; and
 - (b) in subsection (4), for “by the Corporation” there shall be substituted “ by the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order ”.
- (2) Sub-paragraph (1)(a) above does not apply in relation to any compulsory rights order confirmed before the restructuring date.

Compensation for short term improvements etc.

- 20 (1) In subsection (1) of section 26 (compensation in respect of short term improvements and other matters)—
- (a) for “the Corporation occupy” there shall be substituted “ any person occupies ”; and
 - (b) for “by the Corporation” there shall be substituted “ by that person ”.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Compensation shall not be payable by virtue of this section where a person’s occupation of any land, in exercise of rights conferred by a compulsory rights order, is confined to replacing in occupation a person previously entitled to exercise the rights conferred by that order.”
- (3) In subsection (3) of that section, the words “by the Corporation” shall be omitted.

Compensation in respect of forced sales

- 21 (1) In subsection (1) of section 27 (compensation for forced sales), for “the Corporation” there shall be substituted “ the person on whose application the compulsory rights order was made ”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) Where, in the case of any sale in respect of which compensation is payable under this section, a person other than the person who applied for the order is entitled, on the effective date of the sale, to the rights conferred by the compulsory rights order, that compensation shall be payable by the person entitled to those rights, instead of by the person who applied for the order.”
- (3) In subsection (3) of that section—
- (a) for the words “the Corporation”, in the first place where they occur, there shall be substituted “ the person potentially liable ”; and

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- (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ the person to whom the notice was given, or any person designated for the purpose by him, ”.

(4) After subsection (4) of that section there shall be inserted the following subsection—

“(5) In this section—

“effective date”, in relation to a sale, means the date on which the property sold becomes the property of the purchaser; and

“the person potentially liable”, in relation to a notice relating to a sale, means the person on whom the liability to pay the compensation will fall on the effective date of the sale if the person entitled to the rights conferred by the compulsory rights order in question does not change before that date.”

Compensation: definition of holding

- 22 (1) In subsection (1) of section 29 (definition of holding for certain purposes of compensation), for “the Corporation” there shall be substituted “ the Coal Authority or any licensed operator (within the meaning of the Coal Industry Act 1994) ”.
- (2) In subsection (2) of that section, for “(3) and (4) of section seventeen of this Act, the provisions of sections eighteen to twenty of this Act” there shall be substituted “ (1A) and (3) to (3B) of section 17 of this Act and the provisions of section 18 of this Act ”.

Compensation in respect of easements and other rights

- 23 (1) In subsection (2) of section 31 (annual compensation in respect of easements and other rights)—
- (a) after “falls” there shall be inserted “ wholly or partly ”; and
- (b) the words “from the Corporation” shall be omitted.
- (2) After that subsection there shall be inserted the following subsection—
- “(2A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under subsection (2) of this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.”
- (3) In paragraphs (a) and (b) of subsection (3) of that section (terminal compensation in respect of easements and other rights), for the words “the Corporation”, where they occur in each paragraph, there shall be substituted “ the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order ”.

Compensation in respect of disposable minerals

24 (1) After section 31, there shall be inserted the following section—

“31A Compensation in respect of disposable minerals.

(1) The provisions of this section shall have effect where—

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- (a) any person (“the operator”) exercises any right of his by virtue of a compulsory rights order and section 10(1) to this Act to get any minerals other than coal; and
 - (b) the land where the right is exercised was not comprised in that order in the circumstances specified in section 33(1) of this Act.
- (2) The person who, apart from the compulsory rights order and section 10(1) of this Act, would have been entitled to the minerals shall be entitled (subject to the following provisions of this section) to compensation from the operator of an amount equal to 12.5 per cent. of the market value of the minerals at the time when the right is exercised.
- (3) Where, in the case of any minerals, it would be reasonable for steps for making them saleable or for enhancing their value to be taken on the land between—
 - (a) the time when those minerals are got, and
 - (b) any sale of the minerals by the operator from the land,it shall be assumed, for the purpose of determining the market value of those minerals as at the time mentioned in subsection (2) above, that the minerals were in the same condition at the time so mentioned as they would have been had those steps already been taken.
- (4) Any question for the purposes of subsection (3) above as to the extent to which it would be reasonable for any steps to be taken in relation to any minerals shall be determined as at the time mentioned in paragraph (a) of that subsection and on the assumption that it is not reasonable for steps to be taken where the total cost to the operator of taking those steps is equal to or more than the difference between—
 - (a) what would be the market value of the minerals for the purposes of subsection (2) above if it were reasonable for those steps to be taken; and
 - (b) what would be their market value for those purposes if it were not; and for this purpose, where the minerals would not be saleable without the taking of those steps, the market value referred to in paragraph (b) above shall be taken to be nil.
- (5) Where more than one person is entitled to compensation under this section, the amount of compensation mentioned in subsection (2) above shall be apportioned between them according to the values of the interests or rights in respect of which each of them would have been entitled to, or to a share of, the minerals.
- (6) As soon as reasonably practicable, after the end of every period of twelve months during which any person has exercised such a right as is mentioned in subsection (1) above, that person shall give written notice under this subsection to every person appearing to him to be a person entitled to compensation under this section in respect of any exercise by him during that period of that right.
- (7) A notice under subsection (6) above shall—
 - (a) describe the minerals in respect of which the entitlement to compensation of the person given the notice arises; and

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- (b) state the amount appearing to the person giving the notice to be the amount which for the purposes of subsection (2) above is to be taken to be the market value of those minerals as at the time when the right in question was exercised in relation to those minerals.”
- (2) This paragraph shall not apply where the right in question is exercisable by virtue of a compulsory rights order confirmed before the restructuring date.

Compensation for depreciation of land in same ownership

- 25 (1) In subsection (2) of section 32 (annual compensation in respect of depreciation of land in the same ownership)—
- (a) after “falling” there shall be inserted “ wholly or partly ”; and
 - (b) the words “from the Corporation” shall be omitted.
- (2) After that subsection there shall be inserted the following subsections—
- “(2A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under subsection (2) of this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.
- (2B) For the purposes of subsection (2) of this section the annual value of any land for any year shall be taken to be an amount equal to the annual rent at which, immediately before the beginning of that year, that land, in the appropriate circumstances, might reasonably have been expected to be let from year to year under a contract of tenancy whereby the tenant undertook—
- (a) to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and
 - (b) not to carry out any operations on the land, or to make any change in the use thereof, for which permission would be required under Part III of the Act of 1990 or Part III of the Town and Country Planning (Scotland) Act 1972, except any operations for which such permission has been granted and is in force immediately before the beginning of that year.”
- (3) In subsection (3) of that section, for the words before paragraph (a) there shall be substituted—
- “(3) For the purposes of subsection (2B) of this section, the appropriate circumstances—”.
- (4) In subsection (4) of that section (terminal compensation in respect of depreciation of land in same ownership), for “the Corporation” there shall be substituted “ the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order, and that compensation shall be ”.

Time when compensation accrues

- 26 (1) In subsection (1) of section 35 (introduction to provisions as to time when compensation accrues), for “the Corporation” there shall be substituted “ any person ”.

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- (2) In subsection (2) of that section—
- (a) in paragraph (a), for “the Corporation shall” there shall be substituted “every person potentially liable for the compensation shall, on account of any compensation that may become payable by him at the end of the year,”;
 - (b) in paragraph (b), for “the Corporation shall not be required to make payments” there shall be substituted “the requirement to make payments shall not arise”;
 - (c) in paragraph (c), for “to any person for any year” there shall be substituted “for any year by any person to another”; and
 - (d) in paragraph (d)—
 - (i) for “to a person for any year” there shall be substituted “for any year by any person to another”;
 - (ii) for “to him for that year, the Corporation” there shall be substituted “for that year by that person to that other person, the person who paid it”; and
 - (iii) for “to that person” there shall be substituted “by him to that other person”.
- (3) After subsection (6) of that section there shall be inserted the following subsection—
- “(6A) Any compensation payable under section 31A of this Act shall accrue due at the end of the year in which the right in question is exercised.”
- (4) In subsection (7) of that section, the words “by the Corporation” shall be omitted, and for “subsections (4) to (6)” there shall be substituted “subsections (4) to (6A)”.
- (5) In subsection (9) of that section, at the end there shall be inserted the words “; and references in this section to a person potentially liable to compensation, in relation to any time during a year at the end of which compensation may become payable under this Act, are references to the person on whom the liability to pay the compensation will fall at the end of the year if the person entitled to the rights conferred by the compulsory rights order in question does not change before the end of the year.”

Records of condition of land

- 27 (1) In subsection (1) of section 36 (records of condition of land to which compulsory rights order relates), for “the Corporation” there shall be substituted “a person entitled to the rights conferred by a compulsory rights order”.
- (2) In subsection (2) of that section (record of initial condition of land)—
- (a) for the words “the Corporation have” there shall be substituted “any person has”; and
 - (b) for the words “the Corporation shall” there shall be substituted “that person shall”.
- (3) In subsection (3) of that section (record of condition of land at end of period of occupation), for “the Corporation shall, at the end of the period of occupation” there shall be substituted “the person entitled immediately before the end of the period of occupation to the rights conferred by the order shall, at the end of that period”.
- (4) In subsection (5) of that section (service of records), for “the Corporation have caused a record to be made under this section they” there shall be substituted “any person has caused a record to be made under this section, he”.

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- (5) In subsections (6), (7) and (8) of that section, for the words “the Corporation”, in each place where they occur, there shall be substituted “ the person who served the record ”.
- (6) In subsection (9) of that section, for “the Corporation” there shall be substituted “ persons required to make records under this section ”.
- (7) After subsection (9) there shall be inserted the following subsection—
 - “(9A) If any person fails to cause any record to be made or served in accordance with any requirement imposed on him by this section—
 - (a) his obligation to comply with that requirement shall be enforceable by the Coal Authority as if it were a duty owed by that person to that Authority; and
 - (b) without prejudice to its rights by virtue of paragraph (a) above, that Authority may itself cause the record to be made and served in accordance with that requirement and may recover any expenses reasonably incurred in doing so from the person in contravention of that requirement.”

Protection of land from compulsory purchase

- 28 In section 38 (exclusion from compulsory purchase order of land subject to opencast planning permission)—
- (a) in paragraph (a), for “the Corporation” there shall be substituted “ a relevant person ”;
 - (b) in paragraph (b), for “the Corporation give” there shall be substituted “ that relevant person gives ”; and
 - (c) at the end there shall be inserted—

“ In this section “relevant person” means any licensed operator within the meaning of the Coal Industry Act 1994 or any person who is certified by the Coal Authority as a person whose application to that Authority for a licence under Part II of that Act is pending. ”

Entry on land

- 29 (1) In subsection (1) of section 39 (designation of land for the purposes of certain rights of entry), after “may” there shall be inserted “ on the application of the Coal Authority ”.
- (2) In subsection (2) of that section—
- (a) for “the Corporation” there shall be substituted “ the Coal Authority ”; and
 - (b) in paragraph (c), for “the Corporation think fit” there shall be substituted “ the Coal Authority may think fit to authorise him to dispose of ”.
- (3) In subsections (3) and (7) of that section, for the words “the Corporation”, wherever they occur, there shall be substituted “ the Coal Authority ”.
- (4) The references in subsections (3)(d) and (5) of that section to section 15A(4)(c) shall be construed as references to section 15A(5)(c), and shall be deemed always to have fallen to be so construed.
- (5) After subsection (7) of that section there shall be inserted the following subsections—

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“(7A) The persons who may be authorised by the Coal Authority to exercise the powers conferred by this section shall include any person who proposes to exercise those powers for the purposes and on behalf of any person who is or has applied to become a licensed operator within the meaning of the Coal Industry Act 1994; but where—

- (a) any person does exercise powers under this section for the purposes of such a person, and
- (b) his written authority specifies that person and states that he is authorised to exercise those powers for the purposes and on behalf of that person,

subsection (7) of this section shall have effect as if the references to the Coal Authority were references to the specified person.

(7B) Any authorisation by the Coal Authority of any person for the purposes of the exercise of the powers conferred by this section, and any conditions of such an authorisation, may be revoked or varied by that Authority at any time.”

Claims for compensation

- 30 (1) In subsection (1) of section 40 (claims for compensation)—
- (a) for the words “the Corporation”, in the first place where they occur, there shall be substituted “ any person ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ that person ”.
- (2) In subsections (2)(c) and (3) of that section, for the words “the Corporation”, in each place where they occur, there shall be substituted “ any person ”.

Compensation in respect of property held for religious purposes

- 31 (1) In subsection (1) of section 42 (compensation payable in respect of property held for religious purposes), for “the Corporation” there shall be substituted “ any person (“the person liable”) ”.
- (2) In subsection (4) of that section—
- (a) for “the Corporation are” there shall be substituted “ the person liable is ”; and
 - (b) for the words “the Corporation”, in the second and third places where they occur, there shall be substituted “ the person liable ”.

Provision in respect of mortgaged land

- 32 In section 43 (compensation provisions applying to mortgaged land), the words “by the Corporation”, wherever they occur, shall be omitted.

Crown land

- 33 In section 44 (Crown land)—
- (a) in subsection (1), for “the Corporation” there shall be substituted “ the Coal Authority ”; and
 - (b) in subsection (3), the words “by the Corporation” shall be omitted.

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Telecommunication apparatus

- 34 In section 45(2) (application of paragraph 23 of the telecommunications code), for “to the Corporation for the purposes of any permitted activities” there shall be substituted “ for the purposes of any permitted activities to the person with the benefit of that permission ”.

Provisions as to regulations, orders etc.

- 35 After section 49(4) (general power to revoke and vary orders and directions) there shall be inserted the following subsections—

“(4A) A compulsory rights order may, by notice to the person entitled to the rights conferred by the order, be revoked at any time—

- (a) by the Coal Authority, if it is satisfied that that person has consented to the revocation; or
- (b) by the Secretary of State, if he is satisfied that that person has contravened, or is contravening, any of the provisions of the order or any requirement otherwise imposed on that person by or under this Act.

(4B) Where in the case of any compulsory rights order made or confirmed at any time on or after the restructuring date (within the meaning of the Coal Industry Act 1994), it appears to the Coal Authority—

- (a) that the order would not have been made or confirmed, or would not have extended to certain interests or rights, if a person to whom a relevant offer was made had accepted it,
- (b) that that person has, since the making of the order, made a written offer to the person entitled to the rights conferred by it (“the operator”) to enter into an agreement on the terms of the relevant offer,
- (c) that the written offer was made either at a time before the specification of a date in relation to the order as the date of entry or at a time more than twenty-eight days before any date so specified,
- (d) that the person making the offer will enter into an agreement with the operator on those terms if the order is revoked or varied under this subsection, and
- (e) that the circumstances (apart from the expiration or rejection of the relevant offer and the making and confirmation of the order) are not such as to make it unreasonable for the operator to be required to treat the terms of the relevant offer as still available for acceptance,

that Authority may, by notice to the operator and subject to such conditions as it thinks fit, either revoke the order or vary it by limiting it so that it does not extend to the interests and rights of the person who is offering to be bound by an agreement on the terms he previously failed to accept.

(4C) In subsection (4B) above “relevant offer”, in relation to a compulsory rights order, means any offer which—

- (a) was made by the applicant for the order to a person who is one of the persons directly concerned; and
- (b) was an offer as to the terms on which the applicant was willing (instead of requiring rights as against that person to be conferred

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by a compulsory rights order) to enter into an agreement with that person.”

Interpretation

- 36 (1) In subsection (1) of section 51 (interpretation)—
- (a) in the definition of “opencast planning permission”, for “the Corporation to work coal by opencast operations or to carry out” there shall be substituted “the working of coal by opencast operations or the carrying out of”; and
 - (b) after the definition of “statutory undertakers” there shall be inserted the following definition—
 - ““successor”, in relation to an applicant for an order under any provision of this Act, means any person (whether or not the immediate successor of the applicant) who—
 - (a) in accordance with the provisions of any licence granted to the applicant under Part II of the Coal Industry Act 1994, succeeds to any entitlement of that applicant under that licence to work any coal by opencast operations; or
 - (b) becomes entitled by virtue of the grant of a new licence under that Part of that Act to work by such operations any coal which the applicant was previously entitled so to work as a licensed operator within the meaning of that Act;”.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) References in this Act, in relation to any opencast planning permission, to the person with the benefit of that permission shall be construed as a reference to any person who—
- (a) is able, on account of his having all such interests or rights as (apart from that permission) he requires for the purpose, to carry out any of the permitted activities; or
 - (b) would be so able if the rights which he had and was entitled to exercise included any such right as he has applied for, or is entitled to apply for, under this Act or any right which has been conferred on him under this Act but has not yet become exercisable.”

Application to Scotland

- 37 In section 52(3) (construction of references to water authorities in relation to Scotland) after “shall” there shall be inserted “, except in so far as the context otherwise requires,”.

Procedure for compulsory rights orders in Scotland

- 38 (1) In Part I of Schedule 2 (making, confirmation, validity and date of operation of Scottish orders), in paragraph 1(1)—
- (a) after “Schedule to the” there shall be inserted, “ Scottish ”;
 - (b) in paragraph (b), for “Corporation” there shall be substituted “ Coal Authority ”; and
 - (c) in paragraph (c), the words “on the Corporation” shall be omitted.

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- (2) In paragraph 2 of that Schedule, after “in relation to the” there shall be inserted “Scottish”.
- (3) In paragraph 3 of that Schedule—
 - (a) in sub-paragraph (1)—
 - (i) for the words from the beginning to “provisions” there shall be substituted—

“(1) Paragraph 3 of that Schedule shall apply with the substitution, for sub-paragraph (b) of that paragraph, of the following paragraphs—”; and
 - (ii) in the substituted provision (c), for “head (b) of this sub-paragraph” there shall be substituted “sub-paragraph (b) of this paragraph”;
 - and
 - (b) in sub-paragraph (2), for “Corporation” there shall be substituted “Coal Authority”.
- (4) In paragraph 8 of that Schedule, for “Corporation” there shall be substituted “Coal Authority”.
- (5) In paragraph 9 of that Schedule, after “to the” there shall be inserted “Scottish”.
- (6) Paragraph 12 of that Schedule shall cease to have effect.

Other provisions with respect to the procedure for compulsory rights orders

- 39 (1) In paragraph 13 of Part II of Schedule 2 (procedure relating to orders), in sub-paragraph (2), for “The Corporation” there shall be substituted “The person on whose application a compulsory rights order has been made”.
- (2) In sub-paragraph (3) of that paragraph—
 - (a) for the words “The Corporation”, at the beginning, there shall be substituted “That person”;
 - (b) after “on” there shall be inserted “the Coal Authority and on”; and
 - (c) for “to the Corporation” there shall be substituted “to the person serving the notice”.
- (3) In sub-paragraph (4) of that paragraph, for “The Corporation” there shall be substituted “The person on whose application a compulsory rights order has been made”.

Compensation by way of payment for costs of works

- 40 (1) In Schedule 3 (terminal compensation by way of payment for works)—
 - (a) in paragraph 1, after the definition of “compensation” there shall be inserted the following definition—

““final operator” means the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order;”and
 - (b) for the words “the Corporation”, wherever they occur in that Schedule, there shall be substituted “the final operator”.

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- (2) In paragraph 3 of that Schedule—
- (a) in sub-paragraph (a), for “object” there shall be substituted “ objects ”; and
 - (b) in sub-paragraph (b), for “they object” there shall be substituted “ the final operator objects ”.
- (3) In paragraph 5 of that Schedule—
- (a) in sub-paragraph (4)(a)(ii), for “have not” and “they have” there shall be substituted, respectively, “ has not ” and “ the final operator has ”; and
 - (b) in sub-paragraph (5), for “serve” there shall be substituted “ serves ”.
- (4) In paragraph 8 of that Schedule—
- (a) in sub-paragraph (a), for “have not served” there shall be substituted “ has not served ”; and
 - (b) in sub-paragraph (b), for “have served” there shall be substituted “ has served ”.
- (5) In paragraph 9 of that Schedule—
- (a) in sub-paragraph (1), for “have served” there shall be substituted “ has served ”; and
 - (b) in sub-paragraph (2), for “are precluded” there shall be substituted “ is precluded ”.
- (6) In paragraph 10(1) of that Schedule—
- (a) for “have served” there shall be substituted “ has served ”; and
 - (b) in paragraph (b), for “maintain” there shall be substituted “ maintains ”.

Compensation in respect of minerals

41 For paragraph 2 of Schedule 5 (compensation in respect of minerals) there shall be substituted the following paragraph—

- “2 (1) Any entitlement to compensation under this Schedule shall be an entitlement to compensation from—
- (a) in the case of compensation under paragraph 4 or 12 of this Schedule, the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order;
 - (b) in the case of compensation under paragraph 5 of this Schedule, the person on whose application that order is made;
 - (c) in the case of compensation under paragraph 6 of this Schedule, the person by whom the compensation would be payable if it were compensation under section 27 of this Act;
 - (d) in the case of compensation under paragraph 7, 8, 9, 10 or 13 of this Schedule, the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order.
- (2) Sub-paragraph (1)(a) of this paragraph shall have effect subject, where different persons have been entitled to the rights conferred by an order for different parts of the year, to any apportionment under section 35(3) of this Act.”

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Application of Schedule 6 to Scotland

- 42 (1) In paragraph 1(2) of Schedule 6 (changes in right of occupation), for “seventeen to nineteen” there shall be substituted “ 17 and 18 ”.
- (2) In paragraph 2 of that Schedule (new tenancies), for “seventeen to twenty” there shall be substituted “ 17 and 18 ”.
- (3) Paragraphs 8 and 9 of that Schedule (which relate to compensation under section 19 but are applied in relation to compensation under Schedule 5) shall cease to have effect except so far as applied by paragraph 10 of that Schedule.
- (4) In paragraph 26 of that Schedule (apportionment in respect of parts of a year), after sub-paragraph (4) there shall be inserted the following sub-paragraph—
- “(5) This paragraph shall not apply in relation to any compensation the entitlement to which is apportioned in accordance with section 17(3A) of this Act.”
- (5) In paragraph 31 of that Schedule (application of the Schedule to Scotland), for the words from “of land entered” to the end there shall be substituted “ falling within section 2(2)(a) of the Scottish Act of 1991, to a lease and to section 2 of the Scottish Act of 1991. ”
- (6) Sub-paragraphs (1) to (4) above shall not apply in relation to any compulsory rights order confirmed before the restructuring date.

Tenancies of allotment gardens and other allotments

- 43 (1) In paragraph 3 of Schedule 8 (compensation for termination of allotment tenancy), for “the Corporation” there shall be substituted “ the person on whose application the order was made ”.
- (2) In paragraph 4 of that Schedule (amount of compensation payable by the Corporation and interest), the words “by the Corporation” shall be omitted.
- (3) In paragraph 5 of that Schedule (compensation for forced sales), the words “from the Corporation” in sub-paragraph (1) shall be omitted, and after that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) Compensation under this paragraph shall be payable by the person by whom it would be payable if it were compensation under section 27 of this Act.”
- (4) In paragraph 6(3) of that Schedule (application of section 35(7) and (8)), the words “by the Corporation” shall be omitted.
- (5) In paragraph 7 of that Schedule (disputes)—
- (a) in sub-paragraphs (a) and (b), the words “from the Corporation” shall be omitted; and
- (b) in the words after sub-paragraph (b), for “the Corporation” there shall be substituted “ the person from whom it is claimed ”.
- (6) In paragraph 8 of that Schedule (costs of valuation), for “the Corporation” there shall be substituted “ the person from whom the compensation under this Schedule is claimed ”.

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SCHEDULE 9

Section 67.

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Land Registration Act 1925 (c. 21)*F47¹**Textual Amendments**

F47 Sch. 9 para. 1 repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), s. 136(2), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); [S.I. 2003/1725](#), art. 2(1)

The Requisitioned Land and War Works Act 1945 (c. 43)

- 2 In section 34(1) of the Requisitioned Land and War Works Act 1945 (compulsory acquisition under the Defence Acts), for “subsection (1) of section 17 of the Coal Act 1938” there shall be substituted “section 10(3) of the Coal Industry Act 1994”.

The Statistics of Trade Act 1947 (c. 39)

- 3 In section 9 of the Statistics of Trade Act 1947, after subsection (5) (which includes provision authorising the disclosure of the total quantity or value of articles produced, sold or delivered by any person) there shall be inserted the following subsection—

“(5A) In subsection (5)(b) of this section the references to the total quantity or value of any articles produced, sold or delivered shall, in relation to coal of any particular description, include a reference to each of the following, that is to say—

- (a) the total quantity or value of the coal of that description which is consumed in Great Britain by persons who carry on coal-mining operations;
- (b) the total quantity or value of the coal of that description which, in Great Britain, is held as stocks by such persons; and
- (c) the total quantity or value of the coal of that description which is delivered in Great Britain to persons who appear to the competent authority to be all of the same description;

and in this subsection “coal” means coal within the meaning of the Coal Industry Act 1994 or any product of coal and “coal-mining operations” has the same meaning as in that Act.”

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42)

- 4 After section 6 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 there shall be inserted the following section—

“6A Application for the purposes of the Opencast Coal Act 1958.

In the application of this Act for the purposes of section 4(5) of the Opencast Coal Act 1958, Part III of Schedule 1 shall apply as if paragraph 9 were

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omitted and the acquisition to which the compulsory rights order related were not affected by section 120 of the Local Government, Planning and Land Act 1980.”

The Landlord and Tenant Act 1954 (c. 56)

- 5 In the definition of “statutory undertakers” in section 69(1) of the Landlord and Tenant Act 1954 (interpretation), the words from “except that” to the end shall be omitted.

The Public Records Act 1958 (c. 51)

PROSPECTIVE

- 6 In Part II of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958, there shall be inserted at the appropriate place “ Coal Authority ”.

The Public Health Act 1961 (c. 64)

- 7 In the fourth item in the Table in Schedule 4 to the Public Health Act 1961 (attachment of street lighting equipment to certain buildings), in the first column, the reference to the Corporation shall be omitted.

Commencement Information

- I1** Sch. 9 para. 7 in force at 27.3.2004 (“the dissolution date”), see s. 23(2) and [S.I. 2004/144](#), art. 3

The Licensing Act 1964 (c. 26)

F48g

Textual Amendments

- F48** Sch. 9 para. 8 repealed (24.11.2005) by [Licensing Act 2003 \(c. 17\)](#), s. 201(2), [Sch. 7](#) (with ss. 2(3), 15(2), 195); [S.I. 2005/3056](#), art. 2(2) (with art. 4)

Commencement Information

- I2** Sch. 9 para. 8 in force except in so far as it relates to provisions coming into force on the restructuring date by virtue of s. 68(2)(d) at 31.10.1994 by [S.I. 1994/2552](#), art. 2, [Sch. 1](#)

The Gas Act 1965 (c. 36)

- 9 In section 13(8) of the Gas Act 1965 (exclusion of section 17 of the ^{M20}Coal Act 1938)—
- (a) for “Section 17 of the Coal Act 1938” there shall be substituted “ Section 10(3) of the Coal Industry Act 1994 ”, and
 - (b) for “mine of coal (as defined in section 44(1) of the said Act of 1938)” there shall be substituted “ coal mine (as defined in section 65 of the said Act of 1994) ”.

Status: Point in time view as at 03/02/2017.

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Marginal Citations

M20 1938 c. 53.

The Mines (Working Facilities and Support) Act 1966 (c. 4)

- 10 (1) In the Table in section 1 of the Mines (Working Facilities and Support) Act 1966 (provisions for the acquisition of rights to minerals)—
- (a) in paragraph 1, the words “coal and” shall be omitted;
 - (b) paragraph 3 shall cease to have effect; and
 - (c) in paragraph 4(2), for “British Coal Corporation” there shall be substituted “Coal Authority”.
- (2) Where an application has been made before the date on which this paragraph comes into force with respect to the grant of a right under paragraph 3(2) of the Table in section 1 of that Act, that application may be continued and disposed of on or after that date as if it were an application under paragraph 1 of that Table.
- (3) In section 4 of that Act—
- (a) subsection (5) (applications in respect of coal confined to cases where the Corporation has no power to make grant), shall have effect in relation to any time after the coming into force of this paragraph with the substitution—
 - (i) of “paragraph 1” for “ paragraph 3(2) ”;
 - (ii) of “in respect of coal” for “ otherwise than by the British Coal Corporation ”; and
 - (iii) of “Coal Authority” for the words “ British Coal Corporation ”, in the second place where they occur;

and
 - (b) after that subsection there shall be inserted the following subsection—

“(6) In subsection (5) above “coal” does not include lignite or brown coal but (subject to that) does include, together with coal as defined in this Act, all other minerals worked or to be worked therewith.”
- (4) After section 7 of that Act (imposition of restrictions on the working of minerals where a person having an interest in land is not entitled to support or to sufficient support for buildings or works) there shall be inserted the following section—

“7A Special provisions applying to section 7.

- (1) Subject to subsections (2) and (3) below, on an application under section 7 of this Act, the applicant shall not be required to pay or give any compensation or consideration in respect of the imposition of restrictions appearing to the court to be justified by the existence of any right to withdraw support to which any person is entitled under section 38 of the Coal Industry Act 1994 (withdrawal of support).
- (2) Subsection (1) above shall not apply in a case where, in accordance with subsection (2)(b) of section 38 of the Coal Industry Act 1994, that section applies to the land in question by virtue of subsection (5)(a) of section 2 of the Coal Industry Act 1975.

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- (3) Subsection (1) above shall apply in any case where section 38 of the Coal Industry Act 1994 applies to the land in question otherwise than by virtue of subsection (5) of section 2 of the Coal Industry Act 1975 only if the application under section 7 of this Act is sent to the Secretary of State before the end of the period of six months beginning with the date on which particulars of the notice relating to the land to which the application relates are first registered by the Coal Authority under section 56 of the Coal Industry Act 1994.
- (4) Notwithstanding anything in section 12 of this Act, any restrictions the imposition of which appears to the court to be justified as mentioned in subsection (1) above—
- (a) may be imposed under section 7 of this Act on the application of, and so as to vest the right to enforce the restrictions in, any such company, authority or body as is mentioned in the said section 12; and
 - (b) may be so imposed on the application of, and so as to vest the right to enforce the restrictions in—
 - (i) the National Rivers Authority or any water or sewerage undertaker;
 - (ii) any public gas supplier within the meaning of Part I of the Gas Act 1986; or
 - (iii) any company or other body or person carrying on an undertaking primarily for the supply of electricity or hydraulic power for public purposes or to members of the public.”

The Land Commission Act 1967 (c. 1)

- 11 (1) In section 14 of the Land Commission Act 1967 (power to override easements and other rights in England and Wales)—
- (a) in subsection (2), for the words from “statutory undertakers” to “unless” there shall be substituted “ or statutory undertakers) unless ”; and
 - (b) subsection (5) shall cease to have effect.
- (2) In section 15 of that Act (power to override servitudes and other rights in Scotland)—
- (a) in subsection (2), for the words from “statutory undertakers” to “unless” there shall be substituted “ or statutory undertakers) unless ”; and
 - (b) subsection (5) shall cease to have effect.
- (3) In section 58 of that Act (statutory undertakers and the Corporation), subsections (5) and (6) shall cease to have effect.
- (4) In section 89 of that Act (statutory undertakers), subsection (7) shall cease to have effect.
- (5) In paragraph 10 of Part I of Schedule 5 to that Act (dispositions by exempted bodies during an interim period), in sub-paragraph (2)(c), the words from “or the chargeable interest” to the end shall be omitted.

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Commencement Information

- I3** Sch. 9 para. 11(1)(2) in force except in so far as it relates to provisions coming into force on the restructuring date by virtue of s. 68(2)(d) at 31.10.1994 by [S.I. 1994/2552, art. 2, Sch. 1](#)
- I4** Sch. 9 para. 11(1)(2) in force in so far as not already in force and Sch. 9 para. 11(3)-(5) in force at 31.10.1994 ("the restructuring date"), see ss. 7, 68(2) and [S.I. 1994/2553, art. 2](#)

The Gaming Act 1968 (c. 65)

^{F49}12

Textual Amendments

- F49** Sch. 9 para. 12 repealed (1.9.2007) by [Gambling Act 2005 \(c. 19\), s. 358\(1\), Sch. 17](#) (with ss. 352, 354); [S.I. 2006/3272, art. 2\(4\)\(5\), Sch. 3B](#) (with [Sch. 4](#) (as amended by [S.I. 2007/1157, arts. 7-12](#); [S.I. 2007/2169, arts. 7-11](#))) (as inserted by [S.I. 2007/2169, arts. 3, 6, Sch.](#))

Commencement Information

- I5** Sch. 9 para. 12 in force except in so far as it relates to provisions coming into force on the restructuring date by virtue of s. 68(2)(d) at 31.10.1994 by [S.I. 1994/2552, art. 2, Sch. 1](#)

The Town and Country Planning (Scotland) Act 1972 (c. 52)

- 13 (1) In section 181(1)(a) of the Town and Country Planning (Scotland) Act 1972 (application of provisions of that Act in relation to certain land), the words “or of the British Coal Corporation” shall be omitted.
- (2) In section 205 of that Act (procedure in anticipation of planning permission), in subsection (2)(a), the words “or the British Coal Corporation” shall be omitted.
- (3) Sections 251(3)(b) and 259 of that Act (minerals vested in the Corporation and application of that Act to the Corporation) shall cease to have effect.

Commencement Information

- I6** Sch. 9 para. 13(1)(2) at 31.10.1994 ("the restructuring date"), see ss. 7, 68(2) and [S.I. 1994/2553, art. 2](#)
- I7** Sch. 9 para. 13(3) in force at 1.11.1994 by [S.I. 1994/2552, art. 3, Sch. 2](#)

The Fair Trading Act 1973 (c. 41)

^{F50}14

Textual Amendments

- F50** Sch. 9 para. 15 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 26](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#) (with [art. 8](#))

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The Consumer Credit Act 1974 (c. 39)

F50 15

Textual Amendments

F50 Sch. 9 para. 15 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

The Welsh Development Agency Act 1975 (c. 70)

- 16 In section 27(1) of the Welsh Development Agency Act 1975 (interpretation), in paragraph (b) of the definition of “statutory undertakers” the words “the British Coal Corporation” shall be omitted.

The Restrictive Trade Practices Act 1976 (c. 34)

- 17 In section 41(1) of the Restrictive Trade Practices Act 1976 (exceptions from the general restriction on the disclosure of information obtained under or by virtue of that Act), in paragraph (a)—
- (a) for “or the Authorised Conveyancing Practitioners Board” there shall be substituted “ the Authorised Conveyancing Practitioners Board, the Coal Authority ”; and
 - (b) after “or the Railways Act 1993” there shall be inserted “ or the Coal Industry Act 1994 ”.

The Local Government (Miscellaneous Provisions) Act 1976 (c.57)

- 18 (1) In section 15(3) of the Local Government (Miscellaneous Provisions) Act 1976 (restrictions on power of local authorities to survey land which they propose to acquire compulsorily), for “the Civil Aviation Authority and the British Coal Corporation” there shall be substituted “ and the Civil Aviation Authority ”.
- (2) In section 26(6)(b) of that Act (exemptions from power of certain councils with respect to dangerous excavations), for “the British Coal Corporation” there shall be substituted “ the Coal Authority ”.

The Development of Rural Wales Act 1976 (c. 75)

- 19 (1) In paragraph (d) of section 4(1) of the Development of Rural Wales Act 1976 (power of the Development Board for Rural Wales to provide finance), in sub-paragraph (i), after “statutory undertakers” there shall be inserted “ or by the Coal Authority ”.
- (2) In section 34(1) of that Act (interpretation), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation” shall be omitted.
- (3) In the Table in paragraph 56(3) of Schedule 3 to that Act (meaning of “appropriate Minister”), paragraph 8 shall cease to have effect.

Status: Point in time view as at 03/02/2017.

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The Land Registration (Scotland) Act 1979 (c. 33)

^{F51}20

Textual Amendments

F51 Sch. 9 para. 20 repealed (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, sch. 5 para. 34 (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

The Estate Agents Act 1979 (c. 38)

^{F52}21

Textual Amendments

F52 Sch. 9 para. 21 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

The Ancient Monuments and Archaeological Areas Act 1979 (c.46)

22 In section 61(2)(b) of the Ancient Monuments and Archaeological Areas Act 1979 (meaning of “statutory undertakers”), the words “the British Coal Corporation” shall be omitted.

The Competition Act 1980 (c. 21)

^{F53}23

Textual Amendments

F53 Sch. 9 para. 23 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

The Overseas Development and Co-operation Act 1980 (c. 63)

24 (1) In section 2 of the Overseas Development and Co-operation Act 1980 (powers of statutory bodies in relation to the furnishing of assistance), subsection (4) (the Corporation) shall cease to have effect.

(2) In Part III of Schedule 1 to that Act (statutory bodies with powers to furnish assistance under that Act), the entry relating to the British Coal Corporation shall be omitted.

Commencement Information

I8 Sch. 9 para. 24 in force at 27.3.2004 (“the dissolution date”), see s. 23(2) and S.I. 2004/144, art. 3

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

The Local Government, Planning and Land Act 1980 (c. 65)

- 25 (1) In paragraph (b) of the definition of “statutory undertakers” in each of sections 108(1), 120(3) and 170(1) of the Local Government, Planning and Land Act 1980 (definitions of “statutory undertakers”), the words “the British Coal Corporation” shall be omitted.
- (2) In Schedule 16 to that Act (bodies to whom provisions relating to land held by public bodies apply), in paragraph 14, for “The British Coal Corporation” there shall be substituted “The Coal Authority”.

The Highways Act 1980 (c. 66)

- 26 In section 290 of the Highways Act 1980 (supplementary provisions as to powers of entry for the purpose of survey)—
- (a) in subsection (5)—
- (i) for “of the British Coal Corporation, or” there shall be substituted “of the Coal Authority, of any licensed operator (within the meaning of the Coal Industry Act 1994) or”; and
- (ii) for the words from “to that Corporation” to the end there shall be substituted “to that Authority or, as the case may be, to the licensed operator or statutory undertakers concerned.”;
- and
- (b) in subsection (7), the words “the British Coal Corporation, or” shall be omitted.

The Acquisition of Land Act 1981 (c. 67)

- 27 (1) In section 17(4) of the Acquisition of Land Act 1981 (interpretation), paragraph (a) of the definition of “statutory undertakers” (the British Coal Corporation) shall be omitted.
- (2) In section 29 of that Act (application for the purposes of the ^{M21}Opencast Coal Act 1958)—
- (a) in subsection (2)—
- (i) in paragraph (b), for “the British Coal Corporation” there shall be substituted “the Coal Authority”; and
- (ii) in paragraph (c), the words “on the British Coal Corporation” shall be omitted;
- and
- (b) after subsection (6) there shall be inserted the following subsection—
- “(6A) Part III of this Act shall apply as if section 17 were omitted.”
- (3) In paragraph 1(5) of Schedule 2 to that Act (saving for section 17 of the ^{M22}Coal Act 1938), for “section 17(1) of the Coal Act 1938” there shall be substituted “section 10(3) of the Coal Industry Act 1994”.

Marginal Citations

M21 1958 c. 69.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

M22 1938 c. 52.

The Civic Government (Scotland) Act 1982 (c. 45)

- 28 In section 123(1) of the Civic Government (Scotland) Act 1982 (interpretation), in the definition of “statutory undertakers”, the words “the British Coal Corporation” shall be omitted.

The National Audit Act 1983 (c. 44)

- 29 In Part I of Schedule 4 to the National Audit Act 1983 (nationalised industries and other public bodies), the entry relating to the British Coal Corporation shall be omitted.

Commencement Information

I9 Sch. 9 para. 29 in force at 27.3.2004 (“the dissolution date”), see s. 23(2) and [S.I. 2004/144](#), art. 3

The Road Traffic Regulation Act 1984 (c. 27)

- 30 In paragraph 3 of Schedule 5 to the Road Traffic Regulation Act 1984 (buildings in relation to which the Secretary of State is the appropriate authority), in the first column, the reference to the Corporation shall be omitted.

Commencement Information

I10 Sch. 9 para. 30 in force at 27.3.2004 (“the dissolution date”), see s. 23(2) and [S.I. 2004/144](#), art. 3

The Roads (Scotland) Act 1984 (c. 54)

- 31 In section 140 of the Roads (Scotland) Act 1984 (right to enter land)—
- (a) in subsection (3)(b)—
 - (i) for “the British Coal Corporation, and” there shall be substituted “the Coal Authority, any licensed operator (within the meaning of the Coal Industry Act 1994), and”; and
 - (ii) for “the Corporation’s or” there shall be substituted “the Authority’s, licensed operator’s, or”;
 - and
 - (b) in subsection (4), the words “or the British Coal Corporation” shall be omitted.

The Companies Act 1985 (c. 6)

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F54** Sch. 9 para. 32 repealed (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), Sch. 4 para. 84(3), Sch. 5 (with art. 12)

The Housing Act 1985 (c. 68)

- 33 In section 573(1) of the Housing Act 1985 (meaning of “public sector authority”), after “the British Coal Corporation” there shall be inserted “, the Coal Authority”.

The Weights and Measures Act 1985 (c. 72)

- 34 In paragraph 28 of Schedule 5 to the Weights and Measures Act 1985 (exemption of the Corporation from certain provisions)—
- (a) sub-paragraphs (1) and (3) shall cease to have effect; and
 - (b) in sub-paragraph (2), the words from “other than” to “applies” shall be omitted.

The Agricultural Holdings Act 1986 (c. 5)

- 35 Paragraph 8(1)(a) of Part II of Schedule 3 to the Agricultural Holdings Act 1986 (provision applicable to case where consent of tribunal to operation of notice to quit is not required) shall cease to have effect.

The Coal Industry Act 1987 (c. 3)

- 36 In section 5 of the Coal Industry Act 1987 (coal industry trusts)—
- (a) references to the body known as the Coal Industry Social Welfare Organisation shall include references to any person to whom functions of that body are transferred under section 12(3) of the ^{M23}Miners’ Welfare Act 1952; and
 - (b) for subsection (4) there shall be substituted the following subsection—

“(4) In this section “an employee organisation” means any organisation appearing to the Charity Commissioners to represent in respect of their employment a substantial number of persons whose employers are licensed operators within the meaning of the Coal Industry Act 1994, or who are all employed by the same licensed operator.”

Marginal Citations

- M23** 1952 c. 23.

The Housing Act 1988 (c. 50)

- 37 In paragraph 4(b) of Part I of Schedule 9 to the Housing Act 1988 (meaning of “statutory undertakers”), the words “the British Coal Corporation” shall be omitted.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

The Electricity Act 1989 (c. 29)

- 38 (1) In subsection (2) of section 57 of the Electricity Act 1989 (which provides that the general restriction on the disclosure of information obtained under or by virtue of that Act does not apply in relation to the performance by certain authorities of their functions under the provisions listed in subsection (3) of that section), in paragraph (b), after sub-paragraph (ix) there shall be inserted the following sub-paragraph—
- “(ixa) the Coal Authority; or”.
- (2) In subsection (3) of that section, after paragraph (nn) there shall be inserted the following paragraph—
- “(nnn) the Coal Industry Act 1994;”.

The Town and Country Planning Act 1990 (c. 8)

- 39 (1) In section 253(2)(a) of the Town and Country Planning Act 1990 (publication of notice of draft order stopping up or diverting highway), the words “or the British Coal Corporation” shall be omitted.
- (2) In section 315(4) of that Act (disapplication of regulation-making power from certain developments of the Corporation), paragraph (b) and the word “or” immediately preceding it shall cease to have effect.
- (3) Section 317 of that Act (regulation-making power to apply certain enactments to the Corporation) shall cease to have effect.
- (4) In paragraph 1(a)(i) of Schedule 13 to that Act (certain land required for the purposes of certain bodies to be blighted land), the words “or of the British Coal Corporation” shall be omitted.

Commencement Information

- I11** Sch. 9 para. 39(1)(4) in force at 31.10.1994 (“the restructuring date”), see ss. 7, 68(2) and [S.I. 1994/2553, art. 2](#)
- I12** Sch. 9 para. 39(2)(3) in force at 1.11.1994 by [S.I. 1994/2552, art. 3, Sch. 2](#)

The Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

- 40 Section 85 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (regulation-making power to apply certain enactments relating to statutory undertakers to the Corporation) shall cease to have effect.

The Coal Mining Subsidence Act 1991 (c. 45)

- 41 (1) In subsection (7) of section 27 of the 1991 Act (interest on compensation)—
- (a) for “from the end of the period mentioned in subsection (5) above” there shall be substituted “ from the date of the claim on which the payment is made ”; and
- (b) at the end there shall be inserted “ but any period of delay in determining the amount of any such payment which is attributable to unreasonable conduct on the part of that person shall be disregarded for the purposes of this subsection. ”

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In subsection (6) of section 30 of the 1991 Act (interest on compensation)—
- (a) for “from the end of the period mentioned in subsection (5) above” there shall be substituted “ from the date of the claim on which the payment is made ”; and
 - (b) at the end there shall be inserted “ but any period of delay in determining the amount of any such payment which is attributable to unreasonable conduct on the part of that firm shall be disregarded for the purposes of this subsection. ”
- (3) For section 51 of the 1991 Act there shall be substituted the following section—

“51 Service of documents

Section 63 of the Coal Industry Act 1994 (service of documents) shall apply in relation to any notice, request, claim or other document which is required or authorised by virtue of this Act to be served on any person (whether by being given, made or sent to that person or otherwise) as it applies in relation to any document which is required or authorised to be served on any person by virtue of that Act.”

- (4) In paragraph 3(5) of Schedule 6 to the 1991 Act (interest on farm loss payments), at the end there shall be inserted “ but any period of delay in determining the amount of any such payment which is attributable to unreasonable conduct on the part of that person shall be disregarded for the purposes of this sub-paragraph. ”
- (5) In paragraph 2 of Schedule 7 to the 1991 Act (saving where right to withdraw support was conferred by paragraph 5 of Schedule 2 to the ^{M24}Coal Act 1938), in sub-paragraph (1)(b), after “Act” there shall be inserted “ or section 38 of the Coal Industry Act 1994 ”.

Marginal Citations

M24 1938 c. 52.

The Water Industry Act 1991 (c. 56)

- 42 In paragraph 1(5) of Schedule 13 to the Water Industry Act 1991 (protection for certain undertakings)—
- (a) in paragraph (a), for “the British Coal Corporation” there shall be substituted “ the Coal Authority ”; and
 - (b) at the end, there shall be inserted the following paragraph—
 - “(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994;”.

The Water Resources Act 1991 (c. 57)

- 43 (1) In paragraph 1(4) of Schedule 22 to the Water Resources Act 1991 (protection for certain undertakings)—
- (a) in paragraph (a), for “the British Coal Corporation” there shall be substituted “ the Coal Authority ”; and
 - (b) at the end there shall be inserted the following paragraph—

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994;”.

(2) In Schedule 24 to that Act (authorities and enactments which are relevant to the exceptions to the restrictions under that Act on the disclosure of information)—

(a) in Part I, after the entry relating to the Director General of Electricity Supply, there shall be inserted the following entry—

“The Coal Authority.”; and

(b) in Part II, after the entry relating to the Electricity Act 1989 there shall be inserted the following entry—

“The Coal Industry Act 1994.”

The Land Drainage Act 1991 (c. 59)

44 In paragraph 1(1) of Schedule 6 to the Land Drainage Act 1991 (protection for certain undertakings)—

(a) in paragraph (a), for “the British Coal Corporation” there shall be substituted “the Coal Authority”; and

(b) at the end, there shall be inserted the following paragraph—

“(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994.”

The Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

45 In section 161(7) of the Leasehold Reform, Housing and Urban Development Act 1993 (interpretation), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation” shall be omitted.

Commencement Information

I13 Sch. 9 para. 45 in force at 27.3.2004 (“the dissolution date”), see s. 23(2) and [S.I. 2004/144](#), art. 3

SCHEDULE 10

Section 67.

TRANSITIONAL PROVISIONS AND SAVINGS

General saving for repeal of the Coal Act 1938

1 Where this Act repeals any provisions of the ^{M25}Coal Act 1938, that repeal shall not affect so much of this Act or any other enactment as makes provision by reference to anything within the meaning of that Act.

Marginal Citations

M25 1938 c. 52.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Deemed acknowledgments under section 14(3) of the Coal Act 1938

- 2 The repeal by this Act of subsection (3) of section 14 of the Coal Act 1938 shall not have effect so as, at any time after the coming into force of that repeal, to prevent any rights or obligations from arising in accordance with section 64 of the ^{M26}Law of Property Act 1925 (production and safe custody of documents) in respect of an acknowledgment which was deemed under that subsection to have been given to the Coal Commission.

Marginal Citations

M26 1925 c. 20.

Restrictions under section 33 of the Coal Act 1938

- 3 (1) Notwithstanding the repeal by this Act of section 33 of the ^{M27}Coal Act 1938 (consent required for working of coal previously vested in statutory undertakers), where any coal which is vested in the Corporation immediately before the restructuring date is coal which by virtue of that section cannot be worked without the consent of the person in whom any undertaking is vested, the consent of the person in whom that undertaking is for the time being vested shall continue, subject to sub-paragraph (2) below, to be required, on and after that date, for the working of that coal.
- (2) The consent required by virtue of sub-paragraph (1) above for the working of any coal shall, if at any time the undertaking in question is vested in a person having no interest in land supported by that coal, cease from that time to be so required.
- (3) A consent required by virtue of this paragraph shall not be unreasonably withheld.
- (4) Sub-paragraph (3) above does not preclude the right of any person whose consent is sought for the purposes of this paragraph—
- (a) to give consent subject, so far as may be reasonably requisite—
- (i) to a condition that the working of the coal shall not be such as to let down any land in which that person is interested in respect of the undertaking in question or shall be limited to working in particular places or in a particular manner, or
- (ii) to other conditions or limitations as regards the working consented to or the payment of proper compensation for, or the making good of, damage arising therefrom;
- or
- (b) to require, as a condition of consent, payment of a reasonable sum in respect of any legal or other expenses incurred in connection with the consent.
- (5) Any question arising under sub-paragraph (3) or (4) above shall be referred to and determined by the High Court or, in the case of coal in Scotland, the Court of Session.
- (6) On a reference under sub-paragraph (5) above, the High Court or Court of Session shall have power to dispense with the required consent either without conditions or limitations or subject to any such conditions or limitations as are mentioned in sub-paragraph (4) above.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) In determining any question referred to it under sub-paragraph (5) above the High Court or Court of Session shall have regard primarily to the safety and efficient working of the undertaking in question.
- (8) The requirements of this paragraph—
- (a) shall be enforceable by the persons in whom the undertaking in question is for the time being vested; and
 - (b) shall be so enforceable in the same manner, and (subject to any transfer of liabilities in accordance with a restructuring scheme) against the same persons, as by virtue of section 33(6) of the ^{M28}Coal Act 1938, it would have been enforceable immediately before the restructuring date by the persons in whom that undertaking was vested at that time.

Marginal Citations

M27 1938 c. 52.

M28 1938 c. 52.

Rights saved by section 34 of the Coal Act 1938

- 4 (1) Neither the repeal by this Act of section 34 of the Coal Act 1938 (saving for certain statutory rights) nor the transfer by or under this Act of any interest in any land vested in the Corporation immediately before the restructuring date shall affect any such right as is referred to in subsection (1) of that section and is a right subject to which any land is held by the Corporation at that time.
- (2) Sub-paragraph (1) above shall be without prejudice to the transfer by or under this Act to any person of the Corporation's liabilities in respect of any such right as is mentioned in that sub-paragraph.

Saving for rights under section 43(6) of the Coal Act 1938

- 5 The repeal by this Act of section 43 of the ^{M29}Coal Act 1938 (application of that Act in special cases) shall not affect—
- (a) any right of the Forestry Commissioners, as mentioned in subsection (6) of that section, to recover rent accruing on or after the restructuring date;
 - (b) the obligation of those Commissioners in accordance with that subsection to pay that rent to the Corporation or, as the case may be, to the person to whom the Corporation's right to receive that rent has been transferred in accordance with a restructuring scheme; or
 - (c) the obligation under that subsection of the Corporation or, as the case may be, of the person to whom the Corporation's obligations under that subsection have been so transferred to pay to those Commissioners any expenses incurred in the exercise, at any time on or after the restructuring date, of the powers mentioned in that subsection.

Marginal Citations

M29 1938 c. 52.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Licences under section 36 of the 1946 Act

- 6 As well as being subject to the savings in section 25(3) and (4) of this Act, the repeal by this Act of sections 1(1)(a) and (2)(a) and 36 of the 1946 Act (exclusive rights in relation to coal and licences as to certain coal-mining operations) shall be without prejudice to so much of any licence under section 36 of that Act as has effect (with any modifications made in accordance with any provision made under paragraph 4(5) of Schedule 2 to this Act) as a contract between—
- (a) the person to whom it is granted; and
 - (b) the Corporation or, as the case may be, any person to whom the Corporation's rights and liabilities under the licence are transferred in accordance with a restructuring scheme.

Repeal of section 41 of the 1946 Act

- 7 The repeal by this Act of section 41 of the 1946 Act (certain coal industry trusts) shall be without prejudice to the continuing effect after the time when that repeal comes into force of any order made before that time under that section.

Repeal of the Miners' Welfare Act 1952

- 8 The repeal by this Act of the ^{M30}Miners' Welfare Act 1952 shall not affect the application in relation to any trusts of section 2 of the ^{M31}Recreational Charities Act 1958 (certain trusts for the purposes of welfare activities within the meaning of that Act of 1952 to be charitable).

Marginal Citations

M30 1952 c. 23.

M31 1958 c. 17.

Opencast coal

- 9 (1) Where any compulsory rights order has been made under the ^{M32}Opencast Coal Act 1958 before the restructuring date and is awaiting confirmation on that date, that order may be confirmed on or after that date in accordance with that Act as if it had been made by the Authority on the application of the Corporation.
- (2) The rights conferred on the Corporation by any compulsory rights order made under that Act before the restructuring date shall have effect on and after that date as if conferred on the Corporation and its successors (within the meaning of that Act) so as to be exercisable for the purposes only of—
- (a) operations which the Corporation or, as the case may be, any such successor is authorised to carry out by virtue of being a licensed operator; and
 - (b) operations which are incidental to operations falling within paragraph (a) above (including operations carried out at times when the authorisation for the operations falling within that paragraph is not in force).
- (3) Any application to the Secretary of State for an order under section 15 or 16 of that Act which is pending immediately before the restructuring date shall have effect on and after that date as if made to the Authority; and paragraph (aa) of section 15A(1) of that Act (additional matter to be included in notice of application)

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

shall be disregarded for the purposes of any application to which this sub-paragraph applies.

- (4) An order made under section 15 of that Act before the restructuring date shall not require the confirmation of the Secretary of State.
- (5) The provisions of this Act modifying section 16 of that Act shall not affect the operation of that Act in relation to any order made under that section before the restructuring date.
- (6) On and after the restructuring date compensation payable under that Act shall be payable in respect of any compulsory rights order made before that date as if the Corporation were the person on whose application that order was made.

Marginal Citations

M32 1958 c. 69.

Offshore coal adjacent to the Isle of Man

- 10 (1) On and after the restructuring date the rights in relation to coal under the territorial sea adjacent to the Isle of Man which are vested in the Corporation by virtue of section 2(3) of the 1987 Act shall have effect as comprising the exclusive right of authorising—
 - (a) the carrying on of any coal-mining operations for the purpose of searching or boring for that coal; and
 - (b) the carrying on of any coal-mining operations consisting in the winning, working or getting of that coal, in the treatment of that coal in the strata for the purpose of winning any product of coal or in the winning, working or getting of any product of coal resulting from any such treatment of that coal.
- (2) Where, at any time on or after the restructuring date, there comes into force any Order in Council under section 1 of the 1987 Act for bringing any area outside the Isle of Man and the territorial sea adjacent to the Isle of Man within that territorial sea—
 - (a) the rights previously vested in the Authority under this Act in relation to coal in that area shall become exercisable for purposes other than those of the rights of the United Kingdom mentioned in section 1 of the ^{M33}Continental Shelf Act 1964; and
 - (b) those rights shall continue to be vested in the Authority except so far as the Order in Council provides for them to vest at that time in another person.
- (3) The rights in relation to coal under the territorial sea adjacent to the Isle of Man which—
 - (a) by virtue of section 2(3) of the 1987 Act, are vested in the Corporation immediately before the restructuring date, or
 - (b) are rights to which sub-paragraph (2) above has applied on the subsequent coming into force of an Order in Council under section 1 of that Act,
 may at any time be surrendered by the person in whom they are vested (whether as mentioned in this paragraph or in accordance with a restructuring scheme) to, or to a person nominated by, the Government of the Isle of Man, and such a surrender shall be on such terms as may be agreed between that Government and the person making the surrender.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The rights mentioned in sub-paragraph (3) above shall be extinguished if at any time on or after the restructuring date they vest in or are surrendered to the person with the interests and rights of an owner in and in relation to the coal in question.
- (5) In this paragraph “the 1987 Act” means the ^{M34}Territorial Sea Act 1987, as extended to the Isle of Man by the ^{M35}Territorial Sea Act 1987 (Isle of Man) Order 1991.

Marginal Citations

- M33 1964 c. 29.
M34 1987 c. 49.
M35 S.I. 1991/1722.

Coal industry trusts and other social welfare bodies

- 11 The repeal by this Act of section 6 of the ^{M36}Coal Industry Act 1987 (coal industry trusts and other social welfare bodies) shall be without prejudice to the continuing effect after the time when that repeal comes into force of any order made before that time under that section.

Marginal Citations

- M36 1987 c. 3.

Interests affected by planning proposals: blight

- 12 (1) The repeals made by this Act in paragraph 1(a)(i) of Schedule 13 to the ^{M37}Town and Country Planning Act 1990 and section 181(1)(a) of the ^{M38}Town and Country Planning (Scotland) Act 1972 (land to which the provisions of those Acts relating to blight notices apply) shall not affect the operation of those Acts on and after the restructuring date in relation to any blight notice served on the Corporation before that date or to anything done in relation to such a notice.
- (2) In this paragraph, “blight notice” means a blight notice within the meaning of Chapter II of Part VI of that Act of 1990 or sections 181 to 196 of that Act of 1972.

Marginal Citations

- M37 1990 c. 8.
M38 1972 c. 52.

Subsidence

- 13 (1) Without prejudice to section 1(2) of the 1991 Act, the repeal by this Act of subsection (7) of section 34 of that Act (restriction of remedial obligation in relation to buildings etc. of which no notice was given) shall remove the restriction imposed by that subsection in relation to any remedial obligation which first arose before the restructuring date except where before that date either—

Status: Point in time view as at 03/02/2017.

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- (a) that obligation was discharged; or
 - (b) terms of settlement in respect of any claim relating to that obligation were finally agreed or determined.
- (2) Without prejudice to section 37(4) of the 1991 Act (saving for agreements), the provisions of this Act and of that Act relating to any person who is the responsible person in relation to any subsidence damage, or who would be the responsible person if any such damage occurred, shall not affect any rights or obligations in connection with that damage which arise—
- (a) under or in pursuance of a restructuring scheme,
 - (b) under or in pursuance of the conditions of any licence under Part II of this Act, or
 - (c) apart from this Act,
- as between different persons who are or have at any time been licensed operators, or as between the Authority and any one or more such persons.
- (3) Without prejudice to any power conferred by section 13 of the ^{M39}Interpretation Act 1978 (anticipatory exercise of powers), subordinate legislation which—
- (a) is made before the restructuring date under any power contained in the 1991 Act and after any such consultation as may be required for any exercise of that power before that date, and
 - (b) is made so as not to come into force until on or after that date,
- may contain any such provision as may be contained in any subordinate legislation made on or after that date in exercise of that power as amended by this Act.

Marginal Citations

M39 1978 c. 30.

SCHEDULE 11

Section 67.

REPEALS

PART I

REPEALS COMING INTO FORCE ON THE PASSING OF THIS ACT

Chapter	Short title	Extent of repeal
9 & 10 Geo 6. c. 59.	The Coal Industry Nationalisation Act 1946.	In section 36(2)— (a) in paragraph (a), the words from “with respect to which” to “150”; and (b) in paragraph (c), the words from “where” to “250,000 tonnes”.

Status: Point in time view as at 03/02/2017.

Changes to legislation: Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1977 c. 39.	The Coal Industry Act 1977.	In Schedule 4, paragraph 1(5).
1990 c. 3.	The Coal Industry Act 1990.	In section 4(1), paragraph (b) and the word “and” immediately preceding it.

PART II

REPEALS COMING INTO FORCE ON THE RESTRUCTURING DATE

Chapter	Short title	Extent of repeal
1 & 2 Geo. 6. c. 52.	The Coal Act 1938.	Section 3(2) and (4). Section 5. Section 6(2). Section 11. Sections 14 and 15. Section 17. Section 19. Sections 32 to 34. Sections 41 to 45. Schedule 2.
6 & 7 Geo. 6. c. 38.	The Coal Act 1943.	Sections 1 to 3.
9 & 10 Geo 6. c. 59.	The Coal Industry Nationalisation Act 1946.	In section 1, subsection (1) and, in subsection (2)(a), the words “to the exclusion (save as in this Act provided) of any other person”. Section 3(1) to (3). Sections 5 to 9. Section 30. Section 36, so far as unrepealed.
9 & 10 Geo 6. c. 59.—(cont)	The Coal Industry Nationalisation Act 1946.—(cont)	Sections 38 and 39. Section 42. Section 44. Section 48. Section 53.

Status: Point in time view as at 03/02/2017.

Changes to legislation: *Coal Industry Act 1994 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		Schedules 1 and 2.
		Schedule 3.
12 & 13 Geo. 6. c. 53.	The Coal Industry Act 1949.	Section 5.
2 & 3 Eliz. 2. c. 56.	The Landlord and Tenant Act 1954.	In section 69(1), in the definition of “statutory undertakers”, the words from “except that” to the end.
6 & 7 Eliz. 2. c. 69.	The Opencast Coal Act 1958.	Section 3. Section 4(8). Section 13. In section 15A— (a) in subsection (1), paragraph (c) and the word “and” immediately preceding it; (b) subsection (6); and (c) in subsection (9), the word “Corporation’s”. Section 16(9). In section 17(1) and (3), the words “by the Corporation”. In section 26(3), the words “by the Corporation”. In section 31(2), the words “from the Corporation”. In section 32(2), the words “from the Corporation”. In section 35(7), the words “by the Corporation”. In section 43, the words “by the Corporation”, wherever occurring. In section 44(3), the words “by the Corporation”. Section 46(1). In section 51(1), the definition of “the Corporation”. In Schedule 2—

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		(a) in paragraph 1(1)(c), the words “on the Corporation”; and
		(b) paragraph 12.
		In Schedule 8—
		(a) in paragraphs 4 and 6(3), the words “by the Corporation”; and
		(b) in paragraphs 5(1) and 7(a) and (b), the words “from the Corporation”.
1964 c. 29.	The Continental Shelf Act 1964.	Section 1(2).
1965 c. 82.	The Coal Industry Act 1965.	Section 2(3).
1966 c. 4.	The Mines (Working Facilities and Support) Act 1966.	In section 1—
		(a) in paragraph 1 of the Table, the words “coal and”; and
		(b) paragraph 3 of the Table.
		In section 9, the words “and the British Coal Corporation”.
		In Schedule 2, paragraph 2.
1966 c. 47.	The National Coal Board (Additional Powers) Act 1966.	The whole Act.
1967 c. 1.	The Land Commission Act 1967.	Section 58(5) and (6).
		Section 89(7).
		In Schedule 5, in paragraph 10(2)(c), the words from “or the chargeable interest” to the end.
1971 c. 16.	The Coal Industry Act 1971.	Section 6.
		In section 7, subsections (1) to (6) and (8).
1972 c. 52	The Town and Country Planning (Scotland) Act 1972.	In section 181(1)(a), the words “or of the British Coal Corporation”.

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		In section 205(2)(a), the words “or the British Coal Corporation”.
1974 c. 40.	The Control of Pollution Act 1974.	Section 25.
1975 c. 56.	The Coal Industry Act 1975.	In section 2, subsections (1) to (3), (5) and (6) and (8) to (10). Section 3. In Schedule 1, paragraph 5. Schedule 2.
1975 c. 70.	The Welsh Development Agency Act 1975.	In section 27(1), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation”.
1976 c. 75.	The Development of Rural Wales Act 1976.	In section 34(1), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation”.
1976 c. 75.—(cont)	The Development of Rural Wales Act 1976.—(cont)	In the Table in paragraph 56(3) of Schedule 3, paragraph 8.
1977 c. 39.	The Coal Industry Act 1977.	In section 9— (a) subsections (1) to (4); and (b) in subsection (5), the words “this section and”. Section 11(7).
1979 c. 46.	The Ancient Monuments and Archaeological Areas Act 1979.	In section 61(2)(b), the words “the British Coal Corporation”.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In section 108(1), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation”. In section 120(3), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation”. In section 170(1), in paragraph (b) of the definition of “statutory

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		undertakers”, the words “the British Coal Corporation”.
1980 c. 66.	The Highways Act 1980.	In section 290(7), the words “the British Coal Corporation, or”.
1981 c. 67.	The Acquisition of Land Act 1981.	In section 17(4), paragraph (a) of the definition of “statutory undertakers” and, in paragraph (b) of that definition, the word “other”.
		In section 29(2)(c), the words “on the British Coal Corporation”.
1982 c. 45.	The Civic Government (Scotland) Act 1982.	In section 123(1), in the definition of “statutory undertakers”, the words “the British Coal Corporation”.
1984 c. 54.	The Roads (Scotland) Act 1984.	In section 140(4), the words “or the British Coal Corporation”.
		In Schedule 9, paragraphs 31 and 49.
1985 c. 27.	The Coal Industry Act 1985.	Section 1.
1985 c. 72.	The Weights and Measures Act 1985.	In Schedule 5, in paragraph 28, sub-paragraphs (1) and (3) and in sub-paragraph (2) the words from “other than” to “applies”.
1986 c. 5.	The Agricultural Holdings Act 1986.	In Schedule 3, in paragraph 8(1), sub-paragraph (a).
1986 c. 44.	The Gas Act 1986.	In Schedule 7, paragraph 22.
1986 c. 63.	The Housing and Planning Act 1986.	In Schedule 8— (a) paragraphs 1 and 4; and (b) in paragraph 12, sub-paragraph (b) and the word “and” immediately preceding it.
1987 c. 3.	The Coal Industry Act 1987.	Section 2. In Schedule 1— (a) in paragraph 1(3), the words “30”, “36” and “38(2)” and the words from “and in”

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		to “occurs” and in paragraph 1(4), the word “30”;
		(b) paragraphs 4, 7 and 10;
		(c) in paragraph 11(2), the words “, 2(3)” and “and 2(3)”;
		(d) paragraphs 12 and 15;
		(e) in paragraph 18(1), the word “6”;
		(f) in paragraph 20, the words “181(1)(a), 205(2)”;
		(g) paragraph 23;
		(h) in paragraph 28(2), the words from “2(5)” to “section 3(8)”;
		(i) paragraphs 29, 31 and 33;
		(j) in paragraph 34(1), the word “9”; and
		(k) paragraphs 35, 38 to 40, 43, 46, 48 and 49.
1987 c. 49.	The Territorial Sea Act 1987.	Section 2(3).
1988 c. 50.	The Housing Act 1988.	In Schedule 9, in paragraph 4(b) of Part I, the words “the British Coal Corporation”.
1989 c. 15.	The Water Act 1989.	In Schedule 25— (a) in paragraph 26, subparagraphs (1)(b) and (3); and (b) paragraph 50.
1989 c. 29.	The Electricity Act 1989.	In Schedule 16, paragraph 1(1)(iii).
1990 c. 3.	The Coal Industry Act 1990.	Section 4, so far as unrepealed. Section 5. Section 6(2).
1990 c. 8.	The Town and Country Planning Act 1990.	In section 253(2)(a), the words “or the British Coal Corporation”. In Schedule 13, in paragraph 1(a)(i), the words “or of the British Coal Corporation”.

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1990 c. 9.	The Planning (Listed Buildings and Conservation Areas) Act 1990.	Section 85.
1990 c. 11.	The Planning (Consequential Provisions) Act 1990.	In Schedule 2, paragraphs 5(a) and 33.
1991 c. 45.	The Coal Mining Subsidence Act 1991.	In section 10(2)(c), the words “to the Corporation”. In section 16— (a) in subsection (1)(b), the words “to the Corporation”; and (b) in subsection (7), the words “to the Corporation” and the words “to them”, wherever they occur. In section 17(1)(a), the words “to the Corporation”. In section 30— (a) in subsection (1)(b), the words “by the Corporation”; and (b) in subsection (7), in the definition of “consequential loss”, the words “or 34(4) or (7)”. In section 31(2)(b), the words “by the Corporation”. In section 33(1), the words “to the Corporation”.
1991 c. 45.—(cont)	The Coal Mining Subsidence Act 1991.—(cont)	Sections 34 and 35. Section 39. Section 43. Section 45. Section 46(2). Section 47(3). Section 48. In Schedule 2, in paragraph 1(1), the words “the Corporation are satisfied that”.

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PART III

REPEALS COMING INTO FORCE ON AN APPOINTED DAY

Commencement Information

- I14** Sch. 11 Pt. 3 in force for specified purposes at 31.10.1994 and at 1.11.1994 by S.I. 1994/2552, arts. 2, 3, Schs. 1, 2 and Appendices
- I15** Sch. 11 Pt. 3 in force for specified purposes at 24.12.1994 by S.I. 1994/3063, art. 2, Sch.
- I16** Sch. 11 Pt. 3 in force for specified purposes at 1.3.1995 by S.I. 1995/273, art. 2, Sch.
- I17** Sch. 11 Pt. 3 in force at 27.3.2004 for specified purposes by S.I. 2004/144, art. 2(b), Sch.
- I18** Sch. 11 Pt. III in force at 28.4.2014 for specified purposes by S.I. 2014/888, art. 2(b), Sch. (with art. 3)

Chapter	Short title	Extent of repeal
1 & 2 Geo. 6. c. 52.	The Coal Act 1938.	Sections 52 to 55 Section 58.
6 & 7 Geo. 6. c. 38.	The Coal Act 1943.	Section 14. Sections 17 and 18.
9 & 10 Geo 6. c. 59.	The Coal Industry Nationalisation Act 1946.	In section 2— (a) in subsection (2), the words “less than eight nor”; (b) in subsection (3), the words from “from amongst” onwards; and (c) subsection (5). Section 4. Sections 27 and 28. Section 34(1). Section 35. Section 37. Section 41. Section 45. Section 52. Sections 55 to 65. Schedule 2A.
12 & 13 Geo. 6. c. 53.	The Coal Industry Act 1949.	Section 1(2) and (4). Section 4. Sections 7 and 8. Section 13.

Status: Point in time view as at 03/02/2017.

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15 & 16 Geo. 6 & 1 Eliz. 2. c. 23.	The Miners' Welfare Act 1952.	The whole Act.
6 & 7 Eliz. 2. c. 69.	The Opencast Coal Act 1958.	Section 17(4). Sections 19 and 20. In Schedule 6, paragraphs 3, 7, 12 and 22.
10 & 11 Eliz. 2. c. 22.	The Coal Consumers' Councils (Northern Irish Interests) Act 1962.	The whole Act.
11 Eliz. 2 c. 6.	The Coal Industry Act 1962.	Sections 1 and 2. Section 4.
1965 c. 82.	The Coal Industry Act 1965.	Section 1. Section 4(1). Section 5. Schedule 1.
1967 c. 1.	The Land Commission Act 1967.	In section 14, subsection (5). In section 15, subsection (5).
1967 c. 91.	The Coal Industry Act 1967.	Section 4. Sections 7 and 8.
1968 c. 13.	The National Loans Act 1968.	In Schedule 1, the entries relating to sections 28(1)(b) and (2) and 34(1) of the Coal Industry Nationalisation Act 1946.
1970 c. 44.	The Chronically Sick and Disabled Persons Act 1970.	In section 14(1), the words "and the Domestic Coal Consumers' Council".
1971 c. 16.	The Coal Industry Act 1971.	Section 4. Sections 9 and 10.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	Section 251(3)(b). Section 259.
1973 c. 8.	The Coal Industry Act 1973.	Section 2. Section 10. In Schedule 1, paragraphs 2 to 3.

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1975 c. 55.	The Statutory Corporations (Financial Provisions) Act 1975.	In Schedule 2, the entry relating to the British Coal Corporation. In Schedule 4, paragraph 2.
1976 c. 1.	The National Coal Board (Finance) Act 1976.	Section 2. Section 4.
1977 c. 39.	The Coal Industry Act 1977.	Section 1. Section 7. Section 11(1). Section 12(1) and (2). Sections 13 to 16. Schedule 1. Schedule 3. In Schedule 4, paragraphs 1(1) and (7), 2 and 3. Schedule 5.
1980 c. 50.	The Coal Industry Act 1980.	Sections 1 and 2. Section 7. Sections 9 to 11.
1982 c. 15.	The Coal Industry Act 1982.	Section 3. Sections 5 and 6.
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the Coal Industry Nationalisation Act 1946.
1983 c. 60.	The Coal Industry Act 1983.	Sections 1 and 2. Sections 4 to 6. The Schedule.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entries relating to the Coal Industry Act 1965, the Coal Industry Act 1971 and the Coal Industry Act 1977.
1985 c. 27.	The Coal Industry Act 1985.	Sections 3 to 5.
1986 c. 63.	The Housing and Planning Act 1986.	In Schedule 8, paragraph 8.
1987 c. 3.	The Coal Industry Act 1987.	Sections 3 and 4. Sections 6 to 9.

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		<p>In section 10, subsections (2) and (3) and in subsection (4), the words from “except” onwards.</p> <p>In Schedule 1—</p> <p>(a) in paragraph 1(3), the words “4”, “27”, “28”, “37”, “and 64(9)” and “and Schedule 2A to”, and in paragraph 1(4), the words “37”;</p> <p>(b) paragraphs 3, 8, and 9;</p> <p>(c) in paragraph 11, sub-paragraph (1) and in sub-paragraph (2), the words “1(2) to (6) and” and the words from “and in” to the end;</p> <p>(d) paragraphs 16 and 17;</p> <p>(e) in paragraph 18, in sub-paragraph (1) the words “4” and “and 9”, and sub-paragraph (2);</p> <p>(f) paragraph 20, so far as unrepealed;</p> <p>(g) paragraphs 21, 27 and 30;</p> <p>(h) in paragraph 34, in sub-paragraph (1), the word “7”, in sub-paragraph (2) the words “for the word “Board”s’ in subsection (1) and”, and sub-paragraph (3); and</p> <p>(i) paragraphs 36 and 41.</p> <p>Schedules 2 and 3.</p>
1989 c. 29.	The Electricity Act 1989.	In section 57(2) the word “or” at the end of paragraph (b)(ix).
1989 c. 40.	The Companies Act 1989.	In Schedule 18, paragraphs 1 and 18.
1990 c. 3.	The Coal Industry Act 1990.	Sections 1 and 3. Section 6, so far as unrepealed.
1990 c. 8.	The Town and Country Planning Act 1990.	In section 315(4), paragraph (b) and the word

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		“or” immediately preceding it.
		Section 317.
1991 c. 45.	The Coal Mining Subsidence Act 1991.	Section 49(4).
1992 c. 17.	The Coal Industry Act 1992.	The whole Act.
1993 c. 2.	The British Coal and British Rail (Transfer Proposals) Act 1993.	The whole Act.

PART IV

REPEALS COMING INTO FORCE ON THE DISSOLUTION DATE

Commencement Information

I19 Sch. 11 Pt. 4 in force at 27.3.2004 ("the dissolution date"), see s. 23(2) and [S.I. 2004/144](#), art. 3

Chapter	Short title	Extent of repeal
9 & 10 Geo. 6. c. 59.	The Coal Industry Nationalisation Act 1946.	Sections 1 and 2, so far as unrepealed. Section 3(4). Section 29. Sections 31 to 33. Sections 46 and 47. Section 49(3) and (4). Section 54.
12 & 13 Geo. 6. c. 53.	The Coal Industry Act 1949.	Section 1, so far as unrepealed.
9 & 10 Eliz. 2. c 64.	The Public Health Act 1961.	In Schedule 4, in the Table, the reference to the British Coal Corporation.
1965 c. 82.	The Coal Industry Act 1965.	Section 4(2).
1968 c. 13.	The National Loans Act 1968.	In Schedule 5, the entry relating to the Coal Industry Nationalisation Act 1946.
1971 c. 16.	The Coal Industry Act 1971.	Section 7, so far as unrepealed. Section 8.
1973 c. 8.	The Coal Industry Act 1973.	Section 1. Sections 11 to 14.

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		In Schedule 1, paragraph 1. Schedule 2.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the British Coal Corporation.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the British Coal Corporation.
1975 c. 56.	The Coal Industry Act 1975.	Section 1.
1977 c. 39.	The Coal Industry Act 1977.	Section 9(5), so far as unrepealed. Section 10. Section 11, so far as unrepealed.
		In Schedule 4, paragraph 1(2) to (4) and (6).
1980 c. 50.	The Coal Industry Act 1980.	Section 8.
1980 c. 63.	The Overseas Development and Co-operation Act 1980.	In section 2, subsections (4) and (5). In Part III of Schedule 1, the entry relating to the British Coal Corporation.
1983 c. 44.	The National Audit Act 1983.	In Part I of Schedule 4, the entry relating to the British Coal Corporation.
1984 c. 27.	The Road Traffic Regulation Act 1984.	In Schedule 5, in paragraph 3, in the first column, the reference to the British Coal Corporation.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Coal Industry Act 1973.
1987 c. 3.	The Coal Industry Act 1987.	Section 1 and Schedule 1, so far as unrepealed, except in so far as they amend the Housing Act 1985.
1989 c. 40.	The Companies Act 1989.	In Schedule 10, paragraph 27. In Schedule 18, paragraph 10.
1993 c. 28.	The Leasehold Reform, Housing and Urban Development Act 1993.	In section 161(7), in paragraph (b) of the definition of “statutory undertakers”, the words “the British Coal Corporation”.

Status:

Point in time view as at 03/02/2017.

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