



# Coal Industry Act 1994

## 1994 CHAPTER 21

### PART III

#### RIGHTS AND OBLIGATIONS IN CONNECTION WITH COAL MINING

##### *Areas of responsibility*

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

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

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*Changes to legislation: There are currently no known outstanding effects  
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### *Withdrawal of support from land*

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

- (1) Subject to the following provisions of this Part, on and after the restructuring date, any licensed operator shall be entitled, so far as may be reasonably requisite for the carrying on of any coal-mining operations to which section 25 above applies, to withdraw support from any land to which this section applies.
- (2) This section applies to any land, not being land comprised in an underground coal mine, if—
  - (a) a notice under this section relating to that land has been given in accordance with section 39 below and has come into force;
  - (b) immediately before the restructuring date the Corporation was entitled under and in accordance with section 2 of the 1975 Act (rights to withdraw support) to withdraw support from that land; or
  - (c) the following conditions are satisfied, that is to say—
    - (i) the relevant date of publication of a notice under section 2 of the 1975 Act relating to that land is a date not more than three months before the restructuring date;
    - (ii) the Corporation would (apart from subsection (7) below) have become entitled as mentioned in paragraph (b) above at the end of the period of three months beginning on the relevant date of publication; and
    - (iii) that period has expired;

and a right under this section shall have effect whether the coal in relation to which the operations concerned are carried on lies under the land to which this section applies or under adjacent land.
- (3) A notice under this section shall come into force with whichever is the later of the following, that is to say—
  - (a) the expiry of the period of three months beginning with the day after the relevant date of publication; and
  - (b) the time when particulars of the notice are first registered by the Authority in accordance with section 56 below.
- (4) In the case of any licensed operator who is entitled by virtue of this section to withdraw support from any land, the rights comprised in his entitlement shall also be exercisable by any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on.
- (5) In this section and section 39 below “relevant date of publication”—
  - (a) in relation to a notice under section 2 of the 1975 Act, has the same meaning as in that section; and
  - (b) in relation to a notice under this section, means whichever is the later of—
    - (i) the date of the publication of the notice in the London or Edinburgh Gazette; and
    - (ii) the date of the first of the publications for the purposes of section 39(3)(b) below.
- (6) In this section “underground coal mine” means any coal mine which is a mine within the meaning of the <sup>M</sup>Mines and Quarries Act 1954.

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

**Marginal Citations**

M1 1954 c. 70.

**39 Notices under section 38.**

- (1) A notice under section 38 above shall not be given except—
- (a) by a person who on the relevant date of publication is a licensed operator and, as the holder of a licence under Part II of this Act, has an area of responsibility that consists of or includes all the land to which the notice relates; or
  - (b) by a person who on that date—
    - (i) is authorised by such a licence, or by virtue of subsection (3) of section 25 above, to carry on coal-mining operations to which that section applies; and
    - (ii) has the approval of the Authority for the giving of a notice relating to the land in question.
- (2) A notice under section 38 above—
- (a) shall indicate the land to which it relates either by reference to a map or in any other manner which, in the circumstances, is sufficient to identify it;
  - (b) shall identify the person by whom the notice is given and summarise the respects in which the requirements of subsection (1) above are satisfied in relation to that person; and
  - (c) shall state that there are proposals to carry on coal-mining operations which may require the exercise in relation to that land of such a right as is mentioned in section 38(1) above.
- (3) A notice under section 38 above shall be given by being published—
- (a) in the London Gazette or the Edinburgh Gazette, according to whether the land to which the notice relates is in England and Wales or in Scotland; and
  - (b) at least once in each of two successive weeks, in newspapers circulating in the locality where that land is situated.
- (4) Not later than the relevant date of publication of a notice under section 38 above, the person giving that notice shall—
- (a) serve a copy of the notice on every planning authority within whose area or district any part of the land to which the notice relates is situated; and
  - (b) post a copy or copies of the notice in some conspicuous place or places on that land.
- (5) In subsection (4) above “planning authority” means any local planning authority within the meaning of the <sup>M2</sup>Town and Country Planning Act 1990 [<sup>F1</sup><sup>F2</sup>and any corporate joint committee to which Part 6 of the Planning and Compulsory Purchase Act 2004 applies by virtue of regulations under Part 5 of the Local Government and Elections (Wales) Act 2021], or any planning authority within the meaning of Part IX of the <sup>M3</sup>Local Government (Scotland) Act 1973.

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#### Textual Amendments

- F1** Words in s. 39(5) inserted (E.W.) (6.9.2015 for specified purposes, 7.1.2021 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 2 para. 18](#); S.I. 2021/7, reg. 2(c)
- F2** Words in s. 39(5) substituted (E.W.) (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(1)(e), [Sch. 9 para. 32](#)

#### Marginal Citations

- M2** 1990 c. 8.  
**M3** 1973 c. 65.

### 40 Savings for special cases.

- (1) Where the Corporation is bound, immediately before the restructuring date, by—
- (a) the provisions of an agreement which—
    - (i) was made between the Corporation or any predecessor of the Corporation and a person who (within the meaning of the <sup>M4</sup>Coal Act 1938) was interested in any land, and
    - (ii) has effect so as to require the Corporation to comply with an undertaking which is contained in the agreement and is an undertaking not to work any coal, not to work minerals or not to withdraw support from any land,
  - (b) any provisions containing any restriction, terms or conditions applicable to the working of coal by virtue of any agreement entered into after 1st July 1942 and before the restructuring date, or
  - (c) the provisions of any coal-mining lease (within the meaning of that Act of 1938) prohibiting the withdrawal of support from any land specified in the lease,
- section 38 above shall have effect subject to those provisions, but only so far as they have effect in relation to the Corporation or any other person who is for the time being bound by them.
- (2) Section 38 above shall not affect any restrictions, terms or conditions applicable to the working of coal by virtue of—
- (a) any order made (whether before or after the restructuring date) under section 1 or 7 of the <sup>M5</sup>Mines (Working Facilities and Support) Act 1966 (acquisition of rights to work minerals); or
  - (b) section 33 of the <sup>M6</sup>Coal Act 1938 (restriction on working of coal vested in statutory undertakers) or any consent required by virtue of that section;
- and section 38 above shall be without prejudice to the effect in relation to any restrictions, terms or conditions falling within paragraph (a) or (b) above of the provisions of any restructuring scheme.
- (3) Section 38 above shall have effect subject to any such right as was referred to in section 34(1) of the <sup>M7</sup>Coal Act 1938 (statutory and corresponding rights of the Crown, local authorities and statutory undertakers) and is a right to which the activities of the Corporation were subject immediately before the restructuring date.
- (4) Nothing in section 38 above shall confer any entitlement to withdraw support in connection with the working of any coal or coal mines comprised in land in the Forest of Dean or any other part of the area of what was the Hundred of Saint Briavels in

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the county of Gloucester, being land in respect of which the privileges of free miners are exercisable.

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

**Marginal Citations**

- M4** 1938 c. 52.  
**M5** 1966 c. 4.  
**M6** 1938 c. 52.  
**M7** 1938 c. 34.

**41 Revocation of right to withdraw support.**

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

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(5) Subsection (1) above shall be subject to the effect of any notice under section 38 above which is given at any time after the relevant date of publication of the notice under this section.

(6) In this section—

“planning authority” means any local planning authority within the meaning of the <sup>M8</sup>Town and Country Planning Act 1990 [<sup>F3</sup>]<sup>F4</sup> and any corporate joint committee to which Part 6 of the Planning and Compulsory Purchase Act 2004 applies by virtue of regulations under Part 5 of the Local Government and Elections (Wales) Act 2021],<sup>]</sup> or any planning authority within the meaning of Part IX of the <sup>M9</sup>Local Government (Scotland) Act 1973; and

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

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

#### Textual Amendments

- F3** Words in s. 41(6) inserted (E.W.) (6.9.2015 for specified purposes, 7.1.2021 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), [Sch. 2 para. 19](#); S.I. 2021/7, reg. 2(c)
- F4** Words in s. 41(6) substituted (E.W.) (21.1.2021) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(1)(e), [Sch. 9 para. 33](#)

#### Marginal Citations

- M8** 1990 c. 8.
- M9** 1973 c. 65.

### *Subsidence*

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

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

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

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

but for the purposes of this subsection any operations carried on or begun by any person as a person who is for the time being authorised to carry on coal-

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mining operations on behalf of a person who is or has been a licensed operator shall be treated as carried on or begun by the latter person, whether or not the authorisation extends to the operations in question.”

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

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

- (1) Except where Schedule 6 to this Act otherwise provides, the 1991 Act and the regulations under that Act which are in force immediately before the restructuring date shall have effect on and after that date with the substitution, in relation to any subsidence damage, for references to the Corporation of references to the person who is the responsible person in relation to that damage.
- (2) Subject to the following provisions of this section and to section 44 below, the responsible person, in relation to any subsidence damage, shall for the purposes of this Part be—
- (a) the person with responsibility for subsidence affecting the land which has been damaged or, as the case may be, the damaged part of it; or
  - (b) in the case of damage to other property, the person with responsibility for subsidence affecting the land where that property or, as the case may be, the damaged part of it was situated at the time of the damage.
- (3) For the purposes of this Part, the person with responsibility for subsidence affecting any land shall be—
- (a) where that land is for the time being within the area of responsibility of any person as the holder of a licence under Part II of this Act, that person; and
  - (b) in any other case, the Authority.
- (4) For the purposes of this Part a person is the responsible person in relation to any subsidence damage whether that damage was caused or occurred before or after the time when that person became the person with responsibility for subsidence affecting the land in question.
- (5) Accordingly, but subject to section 44 below, where, by virtue of any designation or of any transfer of rights and obligations or of the operation of any such provision as is mentioned in section 37(3) above, any person (“the successor”) becomes the person with responsibility for subsidence affecting any land—
- (a) all the rights and liabilities under the 1991 Act, or under any regulations made under that Act or this Part, of the successor’s predecessor as the person with responsibility for subsidence affecting that land (“the predecessor”) shall be transferred, by virtue only of his becoming the person with responsibility, to the successor; and
  - (b) anything which—
    - (i) has been done under or for any of the purposes of the 1991 Act or those regulations by or in relation to the predecessor, or
    - (ii) is deemed to have been so done,shall be deemed, so far as necessary for that purpose and for the purposes of the continuation by or against the successor of any proceedings under or for the purposes of that Act or those regulations, to have been done by or in relation to the successor.

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- (6) It shall be the duty of a person who becomes as mentioned in subsection (5) above the person with responsibility for subsidence affecting any land to take all reasonable steps to secure that the change in the person with that responsibility does not result in any undue delay in the performance of any obligations falling by virtue of that change to be performed by that person.
- (7) Subsections (5) and (6) above shall have effect in relation to the coming into force of subsection (1) above on the restructuring date as they have effect in relation to any other transfer of rights and obligations but as if the references to the predecessor were references to the Corporation.
- (8) Schedule 6 to this Act shall have effect for making provision, in addition to or instead of that made by subsection (1) above, for or in connection with the modification of references to the Corporation in the 1991 Act.

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

- (1) Where, in the case of any subsidence damage, the area of responsibility of any person as holder of a licence under Part II of this Act includes only part of the damaged land or, as the case may be, of the land where the damaged property was situated, then for the purposes of this Part—
  - (a) that person, together with—
    - (i) every other person within whose area of responsibility any part of that land is situated, and
    - (ii) if any part of that land is not situated within the area of responsibility of any person, the Authority,
shall be the responsible persons in relation to that damage; and
  - (b) the obligations and liabilities by virtue of section 43 above of the responsible person shall be obligations and liabilities imposed jointly and severally on the persons mentioned in paragraph (a) above.
- (2) Subsection (5) of section 43 above shall have effect as modified by subsection (3) below in any case where—
  - (a) a person ceases at any time to be the person with responsibility for subsidence affecting any land but continues, after that time, to be the person with responsibility for subsidence affecting other land; and
  - (b) the effect of subsection (1) above in relation to the circumstances specified in paragraph (a) above is that both the predecessor and the successor are responsible persons in relation to any subsidence damage to which any of the predecessor's rights or liabilities relate.
- (3) In any case where, by virtue of subsection (2) above, this subsection has effect—
  - (a) the rights and liabilities of the predecessor, so far as they relate to subsidence damage in relation to which the predecessor continues to be a responsible person, shall continue to be vested in the predecessor, as well as being vested in the successor; and
  - (b) subsection (5) of section 43 above shall not authorise the continuation against the successor of any proceedings under or for the purposes of the 1991 Act which—
    - (i) have been begun, or are deemed to have been begun, against the predecessor; and



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(ii) may be continued against the predecessor by virtue of paragraph (a) above;

but paragraph (b) above shall be without prejudice to any rules of court in accordance with which the successor may be joined as a party to any proceedings in respect of any such rights or liabilities as are mentioned in paragraph (a) above.

(4) In subsection (1) above the reference to the damaged land and to the damaged property are references, where only part of the land or property has been damaged, to the damaged part of that land or property.

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

(1) The Secretary of State may by regulations make provision imposing requirements on a person with responsibility for subsidence affecting any land—

- (a) to furnish information, on request, to the owner or occupier of any part of that land;
- (b) to furnish information to the Authority about any such request for information relating to, or to the possibility of, subsidence damage as is made otherwise than by the owner or occupier of any part of that land;
- (c) to notify a person who has made a request to which regulations made by virtue of paragraph (b) above apply of its being forwarded to the Authority in pursuance of those regulations; and
- (d) to ensure that such forms and documents as may be described in the regulations accompany information furnished under the regulations.

(2) Regulations under this section may contain such provision as the Secretary of State thinks fit with respect to—

- (a) the descriptions of information to which any request made for the purposes of any such regulations is to be confined; and
- (b) the particulars to be included in, or omitted from, information furnished in accordance with any such regulations.

(3) In this section the reference to an owner, in relation to any land, shall be construed in accordance with section 52(1) of the 1991 Act (interpretation); and section 50 of the 1991 Act (regulations and orders) shall apply in relation to the power to make regulations under this section as it applies in relation to any power of the Secretary of State to make regulations under that Act.

(4) In subsection (5)(c) of section 46 of the 1991 Act and subsection (4)(c) of section 47 of that Act (regulations with respect to information which is to accompany notices), for “which is”, in each case, there shall be substituted “, forms and documents which are”.

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

(1) The Secretary of State may by regulations make such provision as he considers necessary or expedient—

- (a) for the appointment of an independent person (“the subsidence adviser”) to carry out, in prescribed cases, the functions specified in subsection (2) below; and
- (b) for regulating and facilitating the carrying out of those functions by the subsidence adviser.

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- (2) The functions referred to in subsection (1) above are—
- (a) the provision of advice and assistance to persons (other than those with responsibility for subsidence affecting land) in connection with the making of complaints, or the taking of any other steps, in relation to any matter arising under the 1991 Act or any question falling within section 47(1) below;
  - (b) the making to persons with responsibility for subsidence affecting land of recommendations as to the manner in which they conduct themselves where such a matter has arisen or any such question falls to be determined;
  - (c) the making of reports dealing generally with the way in which persons with responsibility for subsidence affecting land conduct themselves where such matters arise or such questions fall to be determined; and
  - (d) the making of reports about the carrying out by the subsidence adviser of his functions, whether in particular cases or generally.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may contain provision which, in prescribed cases, requires—
- (a) the publication by the subsidence adviser of his recommendations and reports; and
  - (b) the giving, to persons concerned with any matter being handled by the subsidence adviser, of opportunities for making representations and objections.
- (4) It shall be the duty of the Authority to furnish the subsidence adviser with all such information and assistance as he may reasonably require in respect of any case in which the Authority is the person with responsibility for subsidence affecting the land in question.
- (5) The Secretary of State may by regulations make provision for—
- (a) expenses incurred by the subsidence adviser in the carrying out of his functions, and
  - (b) the expense of making payments to or in respect of him by way of remuneration or otherwise,
- to be met, in whole or in part, by some or all of the persons with responsibility for subsidence affecting land or in such other manner as may be prescribed.
- (6) The provision that may be contained in regulations under this section shall include—
- (a) provision for any matter to which the regulations relate to be determined by the Authority in such manner, and by reference to such factors, as may be described in the regulations; and
  - (b) provision, where any expenses are to be met by the Authority in accordance with the regulations, for amounts in respect of those expenses to be recoverable by the Authority from other persons with responsibility for subsidence affecting land.
- (7) In this section “prescribed” means prescribed by regulations under this section; and section 50 of the 1991 Act (regulations and orders) shall apply in relation to the powers to make regulations under this section as it applies in relation to any power of the Secretary of State to make regulations under that Act.
- (8) The supplementary, incidental and transitional provision that may be contained, by virtue of subsection (7) above, in regulations under this section may include

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transitional provision in relation to matters arising under the 1991 Act at times before the restructuring date.

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

- (1) The questions that may be referred to the [<sup>F5</sup>appropriate tribunal] under section 40 of the 1991 Act (disputes generally) shall include—
  - (a) any question as to who is the person with responsibility for subsidence affecting particular land;
  - (b) the question whether there has been a contravention of any subsidence requirement; and
  - (c) the question how any such contravention is to be remedied.
- (2) The Secretary of State may by regulations make such provision as he considers appropriate—
  - (a) for establishing procedures that facilitate the making, by agreement or in accordance with regulations made by virtue of paragraph (b) below, of references to such arbitration as may be prescribed of questions arising under the 1991 Act or falling within subsection (1) above;
  - (b) for enabling any such question to be referred to and determined by arbitration in a case where (but for the regulations) it would fall to be referred to the [<sup>F6</sup>appropriate tribunal] on account of a failure by the person whose interest in it derives from the fact or assertion that he is a person with responsibility for subsidence affecting land to agree to the arbitration or to any other method of determining the question; and
  - (c) for regulating the conduct of arbitrations to which questions are referred in accordance with regulations under this subsection.
- (3) Subsections (2) and (3) of section 40 of the 1991 Act (burden of proof and incidental powers) shall apply for the determination of a question falling within subsection (1) above as they apply for the determination of questions arising under the 1991 Act.
- (4) Subject to subsection (5) below, where a question falling within subsection (1) above is referred to the [<sup>F7</sup>appropriate tribunal] or in accordance with any regulations under subsection (2) above to arbitration, the powers of [<sup>F8</sup>that tribunal] or of the arbitrator or arbiter shall include (in addition to any powers conferred by virtue of subsection (3) above)—
  - (a) power to have such regard as may appear appropriate to any recommendations or report made by virtue of any regulations under section 46 above;
  - (b) power by order to require a person with responsibility for subsidence affecting land to take such steps for remedying any contravention of a subsidence requirement as that Tribunal, arbitrator or arbiter may direct; and
  - (c) power to award compensation of an amount not exceeding £5,000 in respect of any such inconvenience caused to a person by a contravention of a subsidence requirement as does not fall to be compensated for apart from this paragraph.
- (5) In the application of subsection (4)(b) above to an arbitration in so far as relating to subsidence affecting land in Scotland, the words “by order” shall be disregarded and the reference to requiring the person to take remedial steps shall not be construed as prejudicing any other provision of Scots law as respects enforcement of a decree arbitral.

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- (6) The Secretary of State may by order substitute a higher amount for the amount for the time being specified in subsection (4)(c) above.
- (7) The Secretary of State may by regulations make provision—
- (a) for the expenses of maintaining procedures for the purposes of any regulations under subsection (2) above to be met, in whole or in part, by some or all of the persons with responsibility for subsidence affecting land or in such other manner as may be prescribed; and
  - (b) for one or more of the parties to a reference in accordance with any such regulations to be required to pay, or to make a contribution towards, the costs and other expenses incurred in relation to that reference by any person.
- (8) The provision that may be contained in regulations under this section shall include—
- (a) provision for any matter to which the regulations relate to be determined by the Authority in such manner, and by reference to such factors, as may be described in the regulations; and
  - (b) provision, where any expenses are to be met by the Authority in accordance with the regulations, for amounts in respect of those expenses to be recoverable by the Authority from other persons with responsibility for subsidence affecting land.
- (9) References in this section to a contravention of a subsidence requirement are references to any contravention by a person with responsibility for subsidence affecting any land of any of the following requirements, that is to say—
- (a) the requirements imposed on such a person by or under the 1991 Act or by any regulations under section 45 above;
  - (b) the requirement imposed by section 43(6) above;
  - (c) the requirement under paragraph 1 of Schedule 6 to this Act to forward a damage notice to the Authority as soon as reasonably practicable after receiving it; and
  - (d) the requirement to comply with an order made by virtue of subsection (4)(b) above (or, as respects the application of that subsection mentioned in subsection (5) above, a decree granted by virtue of subsection (4)(b) or section 40(3)(a) of the 1991 Act (orders of the [<sup>F9</sup>appropriate tribunal])).
- (10) In this section—
- <sup>F10</sup>  
 ...
- [<sup>F11</sup>“the appropriate tribunal” means—
- (a) in relation to England and Wales, the Upper Tribunal;
  - (b) in relation to Scotland, the Lands Tribunal for Scotland; and]
- “prescribed” means prescribed by regulations under this section; and section 50 of the 1991 Act (regulations and orders) shall apply in relation to the powers to make regulations under this section, and the power to make orders under subsection (6) above, as it applies in relation to any power of the Secretary of State to make regulations or orders under that Act.
- (11) The transitional provision that may be included, by virtue of subsection (10) above, in regulations under this section may include provision in relation to questions arising in relation to times before the restructuring date.

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#### Textual Amendments

- F5** Words in s. 47(1) 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. 256(a)** (with Sch. 5)
- F6** Words in s. 47(2)(b) 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. 256(a)** (with Sch. 5)
- F7** Words in s. 47(4) 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. 256(a)** (with Sch. 5)
- F8** Words in s. 47(4) 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. 256(b)** (with Sch. 5)
- F9** Words in s. 47(9)(d) 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. 256(a)** (with Sch. 5)
- F10** Words in s. 47(10) inserted (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. 256(c)** (with Sch. 5)
- F11** Words in s. 47(10) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 256(c)** (with Sch. 5)

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

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

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- (5) Any person who fails to give, in accordance with section 46 or 47 of the 1991 Act (notice to property owners etc. and local authorities), any notice that he is required to give under that section shall be guilty of an offence under this section.
- (6) In any proceedings against a person for an offence by virtue of subsection (5) above it shall be a defence for that person to show that he took such steps as were reasonable to avoid the commission of the offence.
- (7) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

*Rights in relation to former copyhold land*

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

- (1) Where—
  - (a) any coal or coal mine is comprised in or lies under land which was formerly copyhold, and
  - (b) a notice (“a relevant notice”) specifying the area in which that land is comprised—
    - (i) has been given in accordance with section 50 below and has come into force, or
    - (ii) has been published, before the restructuring date, in accordance with section 3 of the 1975 Act (which contains provision equivalent to the provision contained in this section),

the relevant person shall have the like right in relation to that coal or coal mine to carry on coal-mining operations to which section 25 above applies as if all retained interests in that coal or mine subsisting on 31st August 1975 were vested in him, notwithstanding that they are, by virtue of any enactment, in fact vested in another person.
- (2) For the purposes of this section the relevant person, in relation to any relevant notice, is—
  - (a) in the case of a notice given in accordance with section 50 below, the person who gave the notice; and
  - (b) in the case of a notice published in accordance with section 3 of the 1975 Act, the Corporation.
- (3) In so far as—
  - (a) a person other than the relevant person is for the time being a licensed operator in relation to the coal or mine which is comprised in, or lies under, the land comprised in the area specified in a relevant notice, and
  - (b) compensation under Part I of Schedule 7 to this Act or, in relation to times before the restructuring date, under section 3(4) of the 1975 Act either—
    - (i) has become due in respect of any retained interest affected by that notice and has been paid in full, or
    - (ii) would have become due in respect of such an interest but for an agreement under paragraph 8 of Schedule 7 to this Act or paragraph 8 of Schedule 2 to the 1975 Act,

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the person mentioned in paragraph (a) above shall be entitled (instead of the relevant person) to exercise the relevant person’s rights by virtue of subsection (1) above.

- (4) In the case of any licensed operator who is entitled by virtue of this section to carry on any coal-mining operations in relation to any coal or coal mine, the rights comprised in his entitlement shall also be exercisable by any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on.
- (5) Nothing in this section shall confer any such right as is mentioned in section 9(1)(b) above or be taken to authorise a contravention of section 25(1) above or of any of the conditions of a licence under Part II of this Act; and the rights that are conferred on the Corporation by this section shall have effect subject to any transfer of those rights, in accordance with any restructuring scheme, to any other person.
- (6) A notice given for the purposes of this section at any time on or after the restructuring date shall come into force when particulars of it are first registered by the Authority in accordance with section 56 below.
- (7) Schedule 7 to this Act shall have effect with respect to compensation and certain other matters in cases in which a relevant notice is given or has been published.
- (8) In this section and section 50 below and in Schedule 7 to this Act “retained interest” means any retained interest within the meaning of the <sup>M10</sup>Coal Act 1938.
- (9) Subject to the preceding provisions of this section, the rights conferred on the Corporation by section 3 of the 1975 Act shall not be exercisable at any time on or after the restructuring date.

**Marginal Citations**

M10 1938 c. 52.

**50 Notices under section 49.**

- (1) This section applies with respect to the giving of a notice for the purposes of section 49 above at any time on or after the restructuring date.
- (2) The only person who may give the notice is a person who is authorised by a licence under Part II of this Act or by virtue of section 25(3) above to carry on coal-mining operations in the area specified in the notice.
- (3) The notice—
  - (a) shall indicate the land to which it relates either by reference to a map or in any other manner which, in the circumstances, is sufficient to identify it;
  - (b) shall identify the person by whom the notice is given and summarise the respects in which the requirements of subsection (2) above are satisfied in relation to that person;
  - (c) shall state that there are proposals to carry on coal-mining operations in relation to any coal or coal mine which may require the exercise in relation to that land of such a right as is mentioned in section 49(1) above; and
  - (d) shall invite the owners of retained interests in any coal or coal mine comprised in or lying under the land in the area to which the notice relates to give notice of their interests, within the period which begins with the date of the first

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publication of the notice in accordance with subsection (4) below and ends six years after the coming into force of the notice in accordance with section 49(6) above, to the person who gave the notice.

- (4) The notice shall be given by being published—
- (a) in the London Gazette; and
  - (b) at least once in each of two successive weeks, in newspapers circulating in the locality where the land to which the notice relates is situated.

*Additional rights in relation to underground land*

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

- (1) Subject to the following provisions of this section—
- (a) a licensed operator, or
  - (b) any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on,
- shall be entitled, at any time on or after the restructuring date, to exercise the right conferred by this section in relation to any underground land in the area in which the operator in question is authorised to carry on coal-mining operations.
- (2) Subject to the following provisions of this section and to section 5(6) above, the Authority and the persons authorised by the Authority to exercise its right under this section shall also be entitled, at any time on or after the restructuring date, to exercise the right conferred by this section in relation to any underground land in relation to which there is not for the time being any person who, as a licensed operator, is authorised to carry on any coal-mining operations to which section 25 above applies.
- (3) The right conferred by this section in relation to any underground land is a right, for any of the purposes mentioned in subsection (4) below, to do any of the following, that is to say—
- (a) to enter upon, remove, execute works in, pass through or occupy that land; or
  - (b) to do any acts requisite or convenient for the carrying on of any coal-mining operations.
- (4) The purposes mentioned in subsection (3) above are—
- (a) in relation to a licensed operator or a person authorised to act on his behalf, the carrying on of any coal-mining operations; and
  - (b) in relation to the Authority, any purposes connected with the carrying out of its functions under this Act.
- (5) Nothing in this section shall authorise—
- (a) any interference with the carrying on of any underground operations carried on otherwise than for purposes connected with any coal-mining operations;
  - (b) the withdrawal of support from any land or any interference with the surface of any land;
  - (c) the doing of any act which, apart from this section, would be actionable in England and Wales by virtue of—
    - (i) any liberty, privilege, easement, advantage or other right annexed to any other land,



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- (ii) any restrictive covenant, or
    - (iii) any statutory prohibition or restriction,which adversely affects the land in question;
  - (d) the doing of any act which, apart from this section, would be actionable in Scotland by virtue of—
    - (i) any real burden (including a real burden *ad factum praestandum*), or
    - (ii) any statutory prohibition or restriction,which adversely affects the land in question; or
  - (e) the doing of any act which, apart from this section, would be actionable as a trespass or nuisance and, if done, would be likely to cause actual damage of more than a purely nominal amount.
- (6) For the purposes of subsection (5) above the reference to a liberty, privilege, easement, advantage or other right being annexed to any land is a reference to its appertaining to that land or any part of it, to its being demised, occupied or enjoyed with that land or any part of it or to its being reputed or known as part or parcel of the land or as appurtenant to the land or to any part of it.
- (7) Nothing in this section shall confer any such right as is mentioned in section 9(1)(b) above or be taken to authorise a contravention of section 25(1) above or of any of the conditions of a licence under Part II of this Act.
- (8) The rights conferred on the Corporation by virtue of section 15 of the <sup>M11</sup>Coal Act 1938, section 8(1) of the 1946 Act and section 25 of the <sup>M12</sup>Control of Pollution Act 1974 (which made provision similar to that made by this section and extended such provision to waste disposal), or by virtue of any of those provisions, shall not be exercisable at any time on or after the restructuring date.

**Marginal Citations**

- M11** 1938 c. 52.  
**M12** 1974 c. 40.

*Opencast operations*

**52 Opencast operations.**

- (1) The following powers under the <sup>M13</sup>Opencast Coal Act 1958 (“the 1958 Act”) shall not be exercisable at any time after 31st December 1999, that is to say—
  - (a) the power to make a compulsory rights order;
  - (b) the power under section 15 of that Act to make an order suspending a right of way; and
  - (c) the power to make an order under section 16 of that Act (orders conferring rights for the purposes of drainage or water supply);and the Secretary of State shall not, at any time after that date, give a direction designating any land for the purposes of section 39(2) of that Act (rights of entry) except on an application made to him before that date by the Authority.
- (2) Subject to subsection (1) above and to any transfers in accordance with a restructuring scheme of any rights or liabilities under the 1958 Act, that Act shall have effect

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on and after the restructuring date with the amendments specified in Schedule 8 to this Act (which, as well as making other minor amendments of that Act, makes the modifications, in relation to the period before 31st December 1999, which are requisite for enabling orders under that Act to be made in favour of persons other than the Corporation).

- (3) Subsection (1) above shall be without prejudice to the effect after 31st December 1999 of anything done under the 1958 Act on or before that date or generally to the operation of that Act in relation to anything so done.

#### **Marginal Citations**

**M13** 1958 c. 69.

### *Protection of the environment*

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

- (1) This section applies in the case of proposals (“coal-mining proposals”) formulated for inclusion in so much of any application for planning permission as relates to any of the following, that is to say—
- (a) the carrying on of any coal-mining operations;
  - (b) the restoration of land used in connection with the carrying on of any coal-mining operations; and
  - (c) the carrying on of any other operations incidental to any coal-mining operations or to the restoration of land which has been so used.
- (2) Where a planning authority consider any coal-mining proposals included in such an application, they shall have regard—
- (a) to the desirability of the preservation of natural beauty, of the conservation of flora and fauna and geological or physiographical features of special interest and of the protection of sites, buildings, structures and objects of architectural, historic or archaeological interest; and
  - (b) to the extent (if any) to which the person by whom the proposals were formulated has complied with subsection (3) below.
- (3) A person who formulates coal-mining proposals shall be required for the purposes of paragraph (b) of subsection (2) above—
- (a) to have regard, in formulating those proposals, to the desirability of the matters mentioned in paragraph (a) of that subsection; and
  - (b) to formulate proposals (as part of or in addition to the coal-mining proposals) for the adoption of such measures (if any) as it is reasonably practicable for that person to adopt for mitigating any adverse effect of the development to which the coal-mining proposals relate on the natural beauty of any area or on any such flora, fauna, features, sites, buildings, structures or objects as are so mentioned.
- (4) In this section—
- “development” and “planning permission”—
- (a) in relation to England and Wales, have the same meanings as in the <sup>M14</sup>Town and Country Planning Act 1990; and

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- (b) in relation to Scotland, have the same meanings as in the <sup>M15</sup>Town and Country Planning (Scotland) Act 1972; and  
“planning authority” means—
    - (a) any local planning authority within the meaning of the <sup>M16</sup>Town and Country Planning Act 1990 or any planning authority within the meaning of Part IX of the <sup>M17</sup>Local Government (Scotland) Act 1973; or
    - (b) the Secretary of State in the exercise and performance of such of his powers and duties under those Acts as relate to the grant of planning permission.
- (5) Section 3 of the <sup>M18</sup>Opencast Coal Act 1958 (protection of amenity) shall cease to have effect.

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

**C1** [S. 53](#): transfer of functions (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

**Marginal Citations**

**M14** [1990 c. 8.](#)

**M15** [1972 c. 52.](#)

**M16** [1990 c. 8.](#)

**M17** [1973 c. 65.](#)

**M18** [1958 c. 69.](#)

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

- (1) Subject to subsection (5) below, the power of the Secretary of State by a development order to make the planning permission granted by any such order subject to conditions shall include power, in relation to any permission to win or work any minerals in a coal mine started before 1st July 1948, to make it a condition of that permission that there is compliance with such requirements falling within subsection (2) below as may be specified or described in the order.
- (2) The requirements which, in relation to any coal mine, fall within this section are such requirements as the Secretary of State thinks fit in relation to—
  - (a) the demolition or removal of any buildings, plant, machinery, structures or erections used at any time for or in connection with any previous coal-mining operations at that mine; and
  - (b) the re-instatement, restoration and aftercare of any land used at any time for or in connection with any previous coal-mining operations at that mine.
- (3) In subsection (2) above “previous coal-mining operations”, in relation to the requirements imposed by any condition, means—
  - (a) any coal-mining operations carried on by any person before 1st July 1948; or
  - (b) any coal-mining operations which—
    - (i) were carried on by any person at any time on or after that date but before the coming into force of that condition; and
    - (ii) were operations constituting development for which planning permission was granted by a development order or any corresponding order made, or having effect as if made, under any enactment then in force;

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and references in this section to the use of anything in connection with any such operations shall include references to its use for or in connection with activities carried on in association with, or for purposes connected with, the carrying on of those operations.

- (4) A condition contained in a development order by virtue of this section may provide—
- (a) for the requirements imposed by that condition to include a requirement framed by reference to the opinion or approval of the relevant planning authority; and
  - (b) for that condition to be capable of being modified by agreement with the relevant planning authority.
- (5) The Secretary of State’s powers under this section to modify a development order shall not be exercised at any time after the end of the period of six months beginning with the restructuring date, except for purposes which do not, in relation to any coal mine, include any of the following, that is to say—
- (a) imposing a requirement which had not previously been imposed in relation to that coal mine;
  - (b) making a requirement which had been imposed in relation to that coal mine more onerous; and
  - (c) making provision by reference to any person’s opinion or approval so as to confer powers that did not exist before and might be exercised for a purpose falling within paragraph (a) or (b) above;
- but nothing in this subsection shall be taken as affecting the continuing effect after the end of that period of any modification made after the passing of this Act and before the end of that period.
- (6) Expressions used in this section and in the <sup>M19</sup>Town and Country Planning Act 1990 or [<sup>F12</sup>the Town and Country Planning (Scotland) Act 1997] shall—
- (a) in the application of this section to England and Wales, have the same meanings in this section as in that Act of 1990; and
  - (b) in the application of this section to Scotland, have the same meanings in this section as in [<sup>F12</sup>that Act of 1997].
- (7) In this section “relevant planning authority”—
- (a) in relation to England and Wales, means the mineral planning authority within the meaning of the <sup>M20</sup>Town and Country Planning Act 1990; and
  - (b) in relation to Scotland, means the planning authority within the meaning of Part IX of the <sup>M21</sup>Local Government (Scotland) Act 1973.

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#### Textual Amendments

**F12** Words in s. 54(6) substituted (27.5.1997) by 1997 c. 11, s. 4, **Sch. 2 para. 56(1)**

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

**C2** S. 54: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

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#### Marginal Citations

**M19** 1990 c. 8.

**M20** 1990 c. 8.

**M21** 1973 c. 65.

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*Health and safety regulations as to rescue service*

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

- (1) The power to make health and safety regulations shall include power, in relation to any requirement of any such regulations that a person carrying on coal-mining operations is to be a participant in a mine rescue scheme approved by the Secretary of State, to provide—
  - (a) for approval to be given to or withdrawn from any scheme only after such consultation as may be specified or described in the regulations; and
  - (b) for the approved schemes to be confined to those which appear to the Secretary of State to be such as secure that it is reasonably practicable for every licensed operator who is required to do so to participate, on reasonable terms, in an approved scheme.
- (2) In subsection (1) above the references to a mine rescue scheme are references to any scheme or other arrangements the participants in which are entitled, in an emergency, to the services of persons with the expertise and equipment required for rescuing individuals from underground.
- (3) In subsection (1) above “health and safety regulations” means regulations under section 15 of the <sup>M22</sup>Health and Safety at Work etc. Act 1974; and the preceding provisions of this section shall be without prejudice to the generality of any provisions of that Act as to the matters that may be included in any such regulations.

**Marginal Citations**

**M22** 1974 c. 37.

*Registration of rights*

**56 Registration of rights.**

- (1) The Authority shall establish and maintain a register in which it shall enter particulars of—
  - (a) every notice under section 38 above a copy of which is sent to the Authority by the person giving it;
  - (b) every notice published under section 2 of the 1975 Act (notices conferring right for Corporation to withdraw support) a copy of which has been supplied to the Authority by the Corporation;
  - (c) every public notice under paragraph 6(2) of Schedule 2 to the <sup>M23</sup>Coal Act 1938 (withdrawal of support) a copy of which has been supplied to the Authority by the Corporation;
  - (d) every notice given by the Authority under section 41 above;
  - (e) every notice given for the purposes of section 49 above a copy of which is sent to the Authority by the person giving it;
  - (f) every notice published under section 3 of the 1975 Act (notices conferring right for the Corporation to work coal in copyhold land) a copy of which has been supplied to the Authority by the Corporation;

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- (g) every notice sent to the Authority under paragraph 9 of Schedule 7 to this Act and so much of any information known to the Authority as—
    - (i) relates to any compensation paid under section 3(4) of the 1975 Act or to any agreement for the purposes of paragraph 8 of Schedule 2 to the 1975 Act, and
    - (ii) is information which, in the case of any compensation or agreement under or for the purposes of Part I of Schedule 7 to this Act, would fall to be included in such a notice;
  - (h) the following, that is to say—
    - (i) every compulsory rights order under the <sup>M24</sup>Opencast Coal Act 1958,
    - (ii) every order under section 15 or 16 of that Act (rights of way, drainage and water supply), and
    - (iii) every designation under section 39 of that Act,  
in so far as it is an order or designation made by the Authority or an order or designation of which a copy has been supplied to the Authority by the Corporation;
  - (i) every confirmation of an order mentioned in paragraph (h)(i) or (ii) above and every notice or other document for the purposes of that Act of 1958 which is, or a copy of which is, sent to the Authority under that Act or a copy of which has been supplied to the Authority by the Corporation; and
  - (j) every agreement entered into with a local planning authority (within the meaning of that Act of 1958) for the purposes of section 15(5) of that Act (agreements as to the restoration of a right of way).
- (2) Where a copy of any notice under section 38 above is sent to the Authority more than fourteen days before the end of the period of three months mentioned in subsection (3) (a) of that section, the duty of the Authority, subject to subsection (3) below, to enter particulars of that notice in the register maintained under this section shall be discharged before the end of that period of three months.
- (3) The Authority shall not enter in the register maintained under this section any particulars of—
- (a) any notice under section 38 above, or
  - (b) any notice given for the purposes of section 49 above on or after the restructuring date,
- unless it is satisfied that the notice has been properly given in accordance with the requirements of this Act and, in the case of a notice under section 38 above, that the requirements of section 39(4) above have been complied with in relation to that notice.
- (4) It shall be the duty of the Authority to preserve a copy of every document particulars of which are, by virtue of subsection (1) above, for the time being entered in the register maintained under this section.
- (5) If any person furnishes the Authority with any information for the purposes of this section which he knows to be false in a material particular or recklessly furnishes the Authority with any information for those purposes which is false in a material particular, he shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.

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- (6) References in this section to the supply to the Authority by the Corporation of a copy of any document include references to the transfer in accordance with a restructuring scheme of possession of the document itself or of any copy of that document.

**Marginal Citations**

**M23** 1938 c. 52.

**M24** 1958 c. 69.

**Changes to legislation:**

There are currently no known outstanding effects for the Coal Industry Act 1994, Part III.