SCHEDULES

SCHEDULE 8

AMENDMENTS OF THE OPENCAST COAL ACT 1958

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

(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."