



Coal industry Act 1994

1994 CHAPTER 21

PART II

LICENSING OF COAL-MINING OPERATIONS

Licences under Part II

26 Grant of licences

- (1) Subject to subsection (6) below, it shall be the Authority which shall have the power to grant a licence under this Part.
- (2) An application for a licence under this Part may be made by any person who has acquired, or is proposing to acquire, (whether from the Authority or some other person) —
 - (a) such an interest in land comprised in the area with respect to which the application is made, or
 - (b) such rights in relation to coal in that area,as, apart from the need for a licence, would entitle him to carry on the coal-mining operations to which the application relates.
- (3) Where any area of Great Britain, of the territorial sea adjacent to Great Britain or of the continental shelf is one—
 - (a) interests or rights in or in relation to the whole or any part of which may be acquired (in addition to any such rights as may be contained in a licence under this Part) from the Authority, and
 - (b) in relation to which the Authority considers that it is appropriate to do so,the Authority may issue such specific or general invitations as it thinks fit for applications or, as the case may be, further applications to be made in respect of that area for the grant of licences under this Part.
- (4) An applicant for a licence under this Part shall pay to the Authority such fee (if any) in respect of the Authority's handling of that application as, having regard to—

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

27 Authorisation contained in licence

- (1) The provisions of a licence under this Part shall specify or describe the coal-mining operations which, subject to its conditions, are authorised by the licence.
- (2) The provisions included in a licence in pursuance of subsection (1) above—
- (a) shall identify the area of Great Britain, of the territorial sea adjacent to Great Britain or of the continental shelf where the operations are to be carried on; and
 - (b) may restrict the authorisation contained in the licence to operations carried on within such period as may be specified in the licence or as may be determined in a manner so specified;
- and provision made by virtue of paragraph (a) above may include restrictions as to the depth at which any operations are to be carried on.
- (3) Without prejudice to the generality of subsection (2)(b) above, a licence under this Part may provide—
- (a) for the coming into force of the authorisation contained in the licence, or of any conditions or other provisions of the licence, to be postponed until after the acquisition by the holder of the licence of any interest or right in or in relation to any land or other property or until after such other requirements as may be specified or described in the licence have been satisfied; and
 - (b) for the licence to lapse if the interest or right is not acquired, or the other requirements are not satisfied, within such period as may be so specified.
- (4) Without prejudice to subsection (5) below, the persons who, so long as the authorisation remains in force, are authorised to carry on the operations to which a

licence under this Part relates are the holder of the licence and such other persons as may be authorised by the licence or, without any contravention of the conditions of the licence, by the holder of the licence to carry on those operations on his behalf.

- (5) A licence under this Part may contain provision which, in such cases, in such manner and subject to such conditions or consents as may be specified in or required by the provisions of the licence, authorises the transfer of any person's rights and obligations as holder of the licence to another person.
- (6) Without prejudice to any provision made by virtue of section 28(7) below, the conditions and other provisions of a licence under this Part may be modified by the Authority with the agreement of the holder of the licence.

28 Conditions of licence: general

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

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be specified in, or appointed in accordance with, the conditions; and any dispute to which any such provision applies shall be determined accordingly.

(7) Conditions included in a licence under this Part may contain provision for any of the following, that is to say—

- (a) the authorisation contained in the licence, and
- (b) any of the conditions of the licence, apart from any included by virtue of this subsection,

to cease to have effect, or to be revoked or otherwise modified, at such times, in such manner and in such circumstances as may be specified in or determined under the conditions.

(8) Conditions included in a licence under this Part may provide for—

- (a) obligations imposed on any person by the conditions of the licence, and
- (b) liabilities arising in respect of contraventions by any person of the conditions so included,

to continue in accordance with the provisions of that licence, and to be capable of arising, after the authorisation contained in the licence has been revoked or is otherwise no longer in force or, where they have already arisen, to continue after the rights and obligations of the holder of the licence have been transferred to another person.

(9) Subsections (2) to (8) above and section 29 below shall be without prejudice to the generality of subsection (1) above.

29 Conditions for the provision of security

(1) Conditions included in a licence under this Part may include provision requiring the holder of the licence, on or before the coming into force of the authorisation contained in the licence and at such subsequent times as may be determined by or under the conditions—

- (a) to provide such security as may be so determined for his performance of any of the obligations to which he is or may become subject, either in accordance with the licence itself or otherwise by virtue of his being at any time the holder of that licence; and
- (b) for the purposes of that security and in relation to any property or rights in which it consists, to take such steps for or in connection with the establishment and maintenance of any trust or other arrangements as may be so determined.

(2) Where—

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

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

the trust or other arrangements or would prevent or restrict their enforcement for the purpose of being so applied.

30 Publication of licensing arrangements

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