

SCHEDULES

SCHEDULE 2

RESTRUCTURING SCHEMES

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 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
 - (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

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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.