



Coal industry Act 1994

1994 CHAPTER 21

PART I

RE-ORGANISATION OF COAL INDUSTRY

The Corporation's exploitation rights

7 Exploitation rights: general

- (1) From the passing of this Act until such date as the Secretary of State may by order made by statutory instrument appoint for the purposes of this section (“the restructuring date”), section 36 of the 1946 Act (power of the Corporation, subject to limits contained in subsection (2)(a) and (c), to grant licences by way of exception to its exclusive rights) shall have effect with the omission—
 - (a) in subsection (2)(a), of the words from “with respect to which” to “150”; and
 - (b) in subsection (2)(c), of the words from “where” to “250,000 tonnes”.
- (2) On the restructuring date the Corporation shall cease to have the exclusive right, under section 1 of the 1946 Act, of searching for, boring for, working and getting coal in Great Britain.
- (3) On the restructuring date the Corporation’s interests in unworked coal and coal mines, including its interests in any coal that, notwithstanding having been worked at some time, is so attached to or incorporated in any coal mine or other land as to be, in law, a part of it, shall vest without further assurance in the Authority.
- (4) Subsection (3) above shall have effect subject to sections 8 and 9 below and to the powers conferred by virtue of section 12(1) below and, in its application to Scotland, shall have effect with the omission of the words “without further assurance”.
- (5) The Secretary of State shall not under this section appoint a date as the restructuring date unless he is satisfied that such schemes have been or are to be made under section 12 below as will ensure that the Authority is entitled or subject, from that date, to all such property, rights and liabilities as it requires for carrying out the functions which become its functions on that date.

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8 Exploitation rights: territorial waters and continental shelf

- (1) Subject to section 9 below, the interests in unworked coal and coal mines which are vested in the Corporation immediately before the restructuring date shall be deemed to include—
 - (a) the interests and rights of a freehold owner in and in relation to any such coal under the territorial sea adjacent to the United Kingdom as is coal with respect to which the Corporation has rights immediately before that date by virtue of section 1 of the Continental Shelf Act 1964, as read with section 2(3) of the Territorial Sea Act 1987; and
 - (b) the exclusive right, for the purposes of the rights of the United Kingdom mentioned in section 1(1) of that Act of 1964 and without the consent of the Secretary of State, of authorising the carrying on, in relation to the coal in any designated area, of any of the coal-mining operations to which section 25 below applies or of any operation carried on for the purpose of searching or boring for coal.
- (2) Section 7(3) above shall not vest in the Authority any interest or rights in or in relation to any coal or coal mines outside Great Britain and the territorial sea adjacent to Great Britain except those mentioned in subsection (1)(b) above.
- (3) Where on the coming into force on or after the restructuring date of any Order in Council under section 1 of the Territorial Sea Act 1987 any area outside the United Kingdom and the territorial sea adjacent to the United Kingdom is brought within that territorial sea, that Order in Council shall have the effect of vesting the interests and rights of a freehold owner in and in relation to coal under the seabed in that area in such person as may be specified in the Order in Council or, if no person is so specified, in the Authority.
- (4) Nothing shall be vested in any person by virtue of subsection (3) above which would by virtue of section 9 below have been excluded, had the Order in Council come into force before the restructuring date, from the interests and rights which are deemed to be vested in the Corporation immediately before that date.
- (5) In this section “designated area” means any area which is for the time being both outside the territorial sea adjacent to the United Kingdom and comprised in an area designated (whether before or after the beginning of the restructuring date) under section 1(7) of the Continental Shelf Act 1964.
- (6) References in this section to the interests and rights of a freehold owner shall be construed, in relation to any coal the interests or rights in or in relation to which fall to be determined according to the law of Scotland, as references to the interests and rights of a proprietor of the *dominium utile*.

9 Exploitation rights: oil and gas

- (1) It is hereby declared, without prejudice to section 10(2) of the Petroleum (Production) Act 1934 (petroleum set free in the course of mining and other lawful operations), that the interests and rights which are vested or deemed to be vested in the Corporation immediately before the restructuring date do not include—
 - (a) any interest in, or any entitlement to an interest in, any oil or gas which, in its natural condition in strata, is or becomes absorbed in or adsorbed to any coal; or

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- (b) any right, without a licence under section 2 of that Act of 1934, to search for, bore for or get any oil or gas which is or becomes so absorbed or adsorbed.
- (2) Accordingly, nothing in any enactment or subordinate legislation relating to interests or rights in or in relation to any coal, or in or in relation to any oil or gas, shall be taken to have prevented any such interest or entitlement as is mentioned in subsection (1)(a) above from having become by virtue of any enactment or subordinate legislation, or from continuing to be, an interest or entitlement of the Crown.
- (3) The exclusions confirmed by virtue of the preceding provisions of this section from the interests and rights which are vested or deemed to be vested in the Corporation immediately before the restructuring date shall not, in the case of any coal won, worked, treated or got in pursuance of any of those interests or rights, be taken to have, or at any time to have had, the effect of giving rise to any liability in respect of the winning, working, treatment, getting or disposal of—
 - (a) any of that coal having oil or gas occluded in it at the time of its being brought from the strata to the surface or, as the case may be, of its treatment in the strata; or
 - (b) any product of that coal resulting from any such treatment.
- (4) So long as the Authority retains—
 - (a) the interest of a freehold owner in any coal or coal mine vested in it by virtue of section 7(3) above, or
 - (b) in Scotland, the interest of proprietor of the *dominium utile* as respects any such coal or coal mine,the ownership of the coal or coal mine or, as the case may be, the possession of the interest of such a proprietor shall entitle the Authority to grant such rights in relation to that coal or coal mine as are required by any person for the purpose, under the authority of any licence which has been or may be granted to that person under section 2 of the Petroleum (Production) Act 1934, of searching for, boring for or getting any oil or gas in that coal or coal mine.
- (5) The grant under subsection (4) above to any person of any rights—
 - (a) shall, in favour of that person, bind any other person who has or acquires an interest or right in or in relation to the coal or coal mine in question; but
 - (b) shall be without prejudice, in a case where there is a person other than the Authority with an interest or right in that coal or coal mine at the time of the grant, to any such person's rights as against the Authority in respect of—
 - (i) any interference by virtue of the grant with the enjoyment of his interest or right; or
 - (ii) any contravention of an undertaking given in relation to that interest or right.
- (6) In this section “oil or gas” means—
 - (a) any mineral oil or any relative hydrocarbon which, in its natural state, is not a solid; or
 - (b) methane or any other natural gas.

10 Protection for certain interests in coal and coal mines

- (1) This section applies to any coal or coal mine the ownership of which—
 - (a) is vested in the Corporation immediately before the restructuring date; and

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- (b) has not, at any time on or after that date, become vested in a person other than the Corporation or the Authority by virtue of being conveyed or transferred to that person either—
 - (i) by the Authority or the Corporation; or
 - (ii) in accordance with a scheme under section 12 below.
- (2) No interest or right adverse to the title of the Authority or the Corporation in any coal or coal mine to which this section applies shall be capable of being acquired—
 - (a) under section 15 or 17 of the Limitation Act 1980 (time limits on actions to recover land and extinction of titles); or
 - (b) under section 1 or 2 of the Prescription and Limitation (Scotland) Act 1973 (prescriptive possession on *ex facie* valid deed).
- (3) Subject to section 13(8) of the Gas Act 1965 (compulsory purchase for purposes of underground gas storage), where any power to acquire land compulsorily is conferred by or under any enactment (including, unless it otherwise provides, an enactment passed after this Act), that power shall not be exercisable on or after the restructuring date in respect of any coal or coal mine to which this section applies except in so far as—
 - (a) the coal is coal that it is necessary to dig or carry away in the course of operations for the purposes of which the power is conferred; or
 - (b) the coal mine is one that it is necessary to use in the course of any such operations.
- (4) Subsections (2) and (3) above, in their application to England and Wales, shall not restrict the acquisition as mentioned in either of those subsections of any such liberty, privilege, easement, advantage or other right as adversely affects any coal or coal mine to which this section applies and is either annexed to any land or, without being so annexed, is acquired under any enactment.
- (5) Subsection (3) above, in its application to Scotland, shall not restrict the acquisition, as mentioned in that subsection—
 - (a) of any such servitude as adversely affects any coal or coal mine to which this section applies; or
 - (b) of any other right so affecting (but not adverse to the title in) such coal or coal mine.
- (6) For the purposes of subsection (4) 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) The reference in subsection (1) above to the ownership of any coal or coal mine is a reference—
 - (a) in relation to England and Wales, to the interest of the freehold owner of that coal or coal mine; and
 - (b) in relation to Scotland, to the interest as respects that coal or coal mine of proprietor of the *dominium utile*.