



Coal Industry Act 1994

1994 CHAPTER 21

PART II

LICENSING OF COAL-MINING OPERATIONS

Coal-mining operations to be licensed

25 Coal-mining operations to be licensed.

- (1) Subject to subsection (3) below, coal-mining operations to which this section applies shall not, at any time on or after the restructuring date, be carried on by any person except under and in accordance with a licence under this Part.
- (2) This section applies to any coal-mining operations in so far as they—
 - (a) consist in the winning, working or getting (with or without other minerals) of any coal, in the treatment of coal in the strata for the purpose of winning any product of coal or in the winning, working or getting of any product of coal resulting from such treatment;
 - (b) are carried on in relation to coal in any part of Great Britain, in relation to coal under the territorial sea adjacent to Great Britain or in relation to coal in any designated area; and
 - (c) are neither carried on exclusively for the purpose of exploring for coal nor confined to the digging or carrying away of coal that it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal.
- (3) Subject to the following provisions of this Act and to the provisions of any restructuring scheme, where—
 - (a) a licence under subsection (2) of section 36 of the 1946 Act (licences from the Corporation to work or get coal) is in force immediately before the restructuring date, and
 - (b) that licence authorises the carrying on of any coal-mining operations to which this section applies,

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the authorisation contained in that licence shall have effect on and after that date as an authorisation for the carrying on of those operations without a licence under this Part and, accordingly, so as to prevent the carrying on of any operations under and in accordance with that authorisation from constituting a contravention of subsection (1) above.

- (4) Where any authorisation has effect in accordance with subsection (3) above, it shall so have effect, except to the extent that a restructuring scheme otherwise provides—
- (a) subject to the same conditions and to the same powers of revocation and other provisions for expiry and termination as, immediately before the restructuring date, applied to the licence under section 36(2) of the 1946 Act; but
 - (b) as if the powers of the Corporation under that licence were powers of the Authority.
- (5) In this section “designated area” has the same meaning as in section 8 above.

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—
- (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

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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.

[^{F1}26A Licences for coal-mining operations in Wales: approval by Welsh Ministers

- (1) If or to the extent that a licence under this Part authorises coal-mining operations in relation to coal in Wales, it shall have effect only if the Welsh Ministers notify the Authority that they approve the authorisation.
- (2) In this section “Wales” has the meaning given in section 158(1) of the Government of Wales Act 2006.]

Textual Amendments

- F1** S. 26A inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 67, 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(m\)](#)

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

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- 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.

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- (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 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,

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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 ^{M1}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.

Marginal Citations

M1 1986 c. 45.

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.

Enforcement

31 Enforcement orders.

- (1) Subject to subsections (2) and (5) and section 32 below, where the Authority is satisfied—
 - (a) that any person is carrying on any coal-mining operations in contravention of section 25(1) above, or is likely so to carry on any coal-mining operations, or
 - (b) that any person is contravening, or is likely to contravene, any of the conditions of a licence under this Part,

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the Authority may, by a final enforcement order, make such provision in relation to that person as is requisite for the purpose of securing that there is no contravention of section 25(1) above or, as the case may be, that that condition is complied with.

- (2) Subject to subsection (5) below, where—
- (a) it appears to the Authority as mentioned in subsection (1)(a) or (b) above, and
 - (b) it appears to the Authority that it is appropriate that a provisional enforcement order be made,

the Authority may (instead of taking steps towards the making of a final enforcement order) by a provisional enforcement order make such provision in relation to the person in question as appears to it requisite for the purpose of securing that there is no contravention of section 25(1) above or, as the case may be, that the condition is complied with.

- (3) In determining for the purposes of subsection (2)(b) above whether it is appropriate that a provisional enforcement order be made, the Authority shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of section 25(1) above or the condition in question, is likely to be done, or omitted to be done, before a final enforcement order may be made.
- (4) Subject to subsection (5) and section 32 below, where a provisional enforcement order has been made, the Authority shall consider whether, for the purpose of giving it final effect, it should be confirmed and shall be entitled to confirm it, with or without modifications, if—
- (a) it is satisfied that the person to whom the order relates—
 - (i) is carrying on any coal-mining operations in contravention of section 25(1) above, or is likely so to carry on any coal-mining operations; or
 - (ii) is contravening, or is likely to contravene, any of the conditions of a licence under this Part;
- and
- (b) the provision made by the order (with any modifications) is requisite for the purpose of securing that there is no contravention of section 25(1) above or, as the case may be, that that condition is complied with.
- (5) The Authority shall not make a final enforcement order or make or confirm a provisional enforcement order in relation to any person if it is satisfied—
- (a) that that person has agreed to take, and is taking, all such steps as it appears to the Authority for the time being to be appropriate for him to take for the purpose of securing that there is no contravention of section 25(1) above or that the condition in question is complied with; or
 - (b) that the contraventions of section 25(1) above or of that condition were, or the apprehended contraventions are, of a trivial nature.
- (6) An enforcement order—
- (a) shall require the person to whom it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;
 - (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
 - (c) may be revoked at any time by the Authority.

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(7) In this Part—

“enforcement order” means a final enforcement order or a provisional enforcement order;

“final enforcement order” means an order under this section other than a provisional enforcement order; and

“provisional enforcement order” means an order under this section which, if not previously confirmed under subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.

(8) This section and sections 32 and 33 below shall be without prejudice to the right of the Authority, where the conditions of any licence under this Part contain provision for a sum determined by or under those conditions to be paid to the Authority, to enforce that condition in proceedings for the recovery of the sum as an amount due to the Authority by virtue of an enactment.

32 Procedural requirements for enforcement orders.

(1) Before making a final enforcement order or confirming a provisional enforcement order, the Authority shall give notice—

(a) stating that the Authority proposes to make or confirm the order and setting out its effect;

(b) setting out—

(i) any condition of a licence for the purpose of securing compliance with which the order is to be made or confirmed;

(ii) the acts or omissions which, in the Authority’s opinion, constitute or would constitute contraventions of section 25(1) above or, as the case may be, that condition; and

(iii) any other matters which, in the Authority’s opinion, justify the making or confirmation of the order;

and

(c) specifying the period (not being less than twenty-eight days from the date of the service of the notice on the person to whom it relates) within which representations or objections with respect to the proposed order or proposed confirmation may be made;

and, before making or confirming the order, the Authority shall consider any representations or objections which are duly made and not withdrawn.

(2) A notice under subsection (1) above shall be given—

(a) by serving it, together with a copy of the proposed order or of the order as proposed to be confirmed, on the person to whom the order relates; and

(b) by taking such steps (if any) for publishing a copy of the notice as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them and of enabling them to make representations and objections within the period specified in the notice.

(3) The Authority, having given notice under subsection (1) above, shall not make the final enforcement order with modifications that are not contained in the notice or confirm the provisional enforcement order with any such modifications, except—

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- (a) with the consent to the modifications of the person to whom the order relates; or
 - (b) after complying with the requirements of subsection (4) below.
- (4) The requirements mentioned in subsection (3) above are that the Authority shall—
- (a) serve on the person to whom the order relates such notice as appears to the Authority requisite of its proposal to make or confirm the order with modifications;
 - (b) in that notice specify the period (not being less than twenty-eight days from the date of its service on the person to whom the order relates) within which representations or objections with respect to the proposed modifications may be made;
 - (c) take such steps (if any) for publishing a copy of the notice as it considers appropriate for the purpose of bringing the proposal to the attention of persons likely to be affected by it and of enabling them to make representations and objections within the period specified in the notice; and
 - (d) consider any representations or objections which are duly made and not withdrawn.
- (5) As soon as practicable after making a final enforcement order or making or confirming a provisional enforcement order, the Authority shall—
- (a) serve a copy of the order or, as the case may be, of the order as confirmed on the person to whom it relates; and
 - (b) take such steps (if any) for publishing notice of the order and, where the case so requires, of its confirmation and any modifications subject to which it is confirmed as the Authority considers appropriate for the purpose of bringing the matters contained in the notice to the attention of persons likely to be affected by them.
- (6) Before revoking an enforcement order, other than an unconfirmed provisional enforcement order, the Authority shall give notice—
- (a) stating that it proposes to revoke the order and setting out the effect of the order; and
 - (b) specifying the period (not being less than twenty-eight days from the date of the service of the notice on the person to whom the order relates) within which representations or objections with respect to the proposed revocation may be made;
- and, before revoking the order, the Authority shall consider any representations or objections which are duly made and not withdrawn.
- (7) If, after giving a notice under subsection (6) above, the Authority decides not to revoke the order to which the notice relates, it shall give notice of its decision.
- (8) A notice under subsection (6) or (7) above shall be given—
- (a) by serving it on the person to whom the order relates; and
 - (b) by taking such steps (if any) for publishing a copy of the notice as the Authority considers appropriate for the purpose of bringing the matters contained in the notice to the attention of persons likely to be affected by them and, in the case of a notice under subsection (6) above, of enabling them to make representations and objections within the period specified in the notice.

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33 Validity and effect of enforcement orders.

- (1) If the person to whom an enforcement order relates is aggrieved by the order and desires to question its validity on the ground—
 - (a) that its making or confirmation was not within the powers conferred by section 31 above, or
 - (b) that any of the requirements of section 32 above have not been complied with in relation to it,he may, within forty-two days from the date of service on him of a copy of the order or, as the case may be, of the order as confirmed, make an application to the court under this section.
- (2) On any such application the court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the applicant have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.
- (3) Except as provided by this section, the validity of an enforcement order shall not be questioned by any legal proceedings whatever.
- (4) The obligation to comply with an enforcement order shall be a duty owed to any person who may be affected by a contravention of the order.
- (5) Where a duty is owed by any person to another person by virtue of subsection (4) above, any breach of the duty which causes that other person to sustain loss or damage shall be actionable against the person in breach at the suit or instance of that other person.
- (6) In any proceedings brought against any person in pursuance of subsection (5) above, it shall be a defence for him to show that he took all reasonable steps and exercised all due diligence to avoid the contravention of the order.
- (7) Without prejudice to any right which any person may have by virtue of subsection (4) or (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of an enforcement order, compliance with any such order shall be enforceable by civil proceedings by the Authority for an injunction or for interdict or for any other appropriate relief.
- (8) In this section and section 34 below “the court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.

34 Power to require information for the purposes of enforcement.

- (1) Where it appears to the Authority—
 - (a) that there is or may have been a contravention of section 25(1) above, or
 - (b) that any person is contravening, or may have contravened, any condition of a licence under this Part,the Authority may, for any purpose connected with such of its functions under section 31 above as are exercisable in relation to that matter, serve a notice under subsection (2) below on any person.
- (2) A notice under this subsection is a notice which—
 - (a) requires the person on whom it is served to produce, at a time and place specified in the notice, to the Authority or to any person appointed by the

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- Authority for the purpose, any documents which are specified or described in the notice and are in that person's possession or under his control; or
- (b) requires that person, if he is carrying on a business, to furnish the Authority, at a time and place and in the form and manner specified in the notice, with such information as may be specified or described in the notice.
- (3) No person shall be required under this section to produce any documents which he could not be compelled to produce in civil proceedings in the court or, in complying with any requirement for the furnishing of information, to disclose any information which he could not be compelled to give in evidence in any such proceedings.
- (4) A person who without reasonable excuse fails to do anything required of him by a notice under subsection (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) A person who intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (2) above to produce 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.
- (6) If a person makes default in complying with a notice under subsection (2) above, the court may, on the application of the Authority, make such order as the court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.
- (7) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Authority or the Director of Public Prosecutions.

Supplemental

35 Register of licences and orders.

- (1) Subject to subsections (2) and (3) below, the Authority shall establish and maintain a register in which it shall enter particulars of—
- (a) every licence granted under this Part and every pending application for such a licence;
- (b) every licence in pursuance of which any person is or has been entitled to carry on coal-mining operations by virtue of section 25(3) above;
- (c) every transfer, in accordance with the provisions of a licence under this Part, of the rights and obligations of any person as the holder of that licence;
- (d) every revocation of, or of the authorisation contained in, a licence falling within paragraph (a) or (b) above;
- (e) every other such modification of a licence falling within paragraph (a) or (b) above as relates to the particulars of that licence which are entered in the register;
- (f) such trusts and other arrangements as for the time being have effect for the purposes of any security provided under the conditions included in licences

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- under this Part in pursuance of the Authority’s duty under section 2(1)(c) above; and
- (g) every enforcement order made under section 31 above, every confirmation of a provisional enforcement order, the terms on which every confirmed order is confirmed and every revocation of an enforcement order.
- (2) The particulars entered in the register in relation to any licence shall be confined to—
- (a) the date of the grant of the licence and the time of the coming into force of the authorisation contained in the licence;
 - (b) the identity of the person to whom the licence is granted and a description of any other persons who are entitled, under the licence, to carry on the coal-mining operations to which it relates;
 - (c) the area to which the authorisation contained in the licence relates;
 - (d) any restrictions contained in the licence as to the depth at which the coal-mining operations authorised by the licence may be carried on;
 - (e) any other provisions of the licence restricting the coal-mining operations that are authorised by the licence to specified descriptions of operations;
 - (f) any area designated by the licence under section 37 below as the area of responsibility of the holder of the licence;
 - (g) any provision included in the licence for the purposes of section 58 below and any conditions requiring the disclosure of information which may be of the description specified for those purposes; and
 - (h) any provisions of the licence for the expiry of the authorisation contained in the licence or for determining when an area ceases to be the area of responsibility of the holder of the licence.
- (3) The particulars entered in the register in relation to any pending application for a licence under this Part shall be confined to so much of the application as contains proposals with respect to any of the matters mentioned in subsection (2) above.
- (4) The particulars entered in the register in relation to any trust or other arrangements falling within subsection (1)(f) above shall be confined to particulars identifying the form (but not the value or amount) of the security in question, the person who provided the security and the trustees or other person responsible for administering the security or determining the use to which it is put.

36 Insolvency of licensed operators etc.

- (1) A licence under this Part and the obligations arising out of, or incidental to, such a licence shall not be treated as property for any of the purposes of the ^{M2}Insolvency Act 1986 (“the 1986 Act”); but this subsection shall be without prejudice to so much of any licence as, by virtue of section 27(4) or (5) above, authorises the official receiver or any person who is for the time being acting as an insolvency practitioner in relation to the holder of the licence to carry on any of the coal-mining operations to which the licence relates or to transfer the rights and obligations of the holder of the licence to another person.
- (2) Where, in the case of the winding up of a company which is or has been a licensed operator, the liquidator or official receiver sends to the registrar of companies—
- (a) any such account or return as is mentioned in section 94(3) or 106(3) of the 1986 Act (account of the winding up and return of final meeting or meetings),

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- (b) any notice for the purposes of section 172(8) of that Act (notice of final meeting and of its decisions),
- (c) an application under section 202(2) of that Act (applications for early dissolution),
- (d) a copy of such an order for dissolution of the company as is mentioned in section 204(4) of that Act (order for early dissolution in Scotland), or
- (e) such a notice as is mentioned in section 205(1)(b) of that Act (notice that winding up complete),

the liquidator or official receiver, on sending it to the registrar of companies, shall also send a copy to the Authority.

[^{F2}(2A) Where the administrator of a company which is or has been a licensed operator files a notice with the registrar of companies under paragraph 84(1) of Schedule B1 to the Insolvency Act 1986 (c. 45) (administration: moving to dissolution), he shall at the same time send a copy to the Authority.]

(3) A liquidator [^{F3}or administrator] who contravenes subsection (2) [^{F4}or (2A)] above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) In any proceedings against any person for an offence under subsection (3) above it shall be a defence for that person to show that at the time of the contravention he did not know and had no grounds for suspecting that the company in question had ever been a licensed operator.

(5) In the case of any company which is either—

- (a) the holder of a licence under this Part, or
- (b) a licensed operator by virtue of section 25(3) above,

the Authority shall be included in the persons who are entitled to make an application under [^{F5}section 1029 of the Companies Act 2006 (application to court for restoration to the register)] or under section 201(3), 202(5), 204(5) or 205(3) or (5) of the 1986 Act (applications in the case of a winding up for the deferment of a company’s dissolution).

^{F6}(6)

(7) In this section “registrar of companies” has the same meaning as in [^{F7}the Companies Acts (see section 1060 of the Companies Act 2006)]; and the reference in subsection (1) above to a person’s acting as an insolvency practitioner shall be construed in accordance with section 388 of the 1986 Act.

Textual Amendments

- F2** S. 36(2A) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 17 para. 48(2) (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)
- F3** Words in s. 36(3) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 17 para. 48(3)(a) (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)
- F4** Words in s. 36(3) inserted (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 17 para. 48(3)(b) (with s. 249(1)-(3)); S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 3)
- F5** Words in s. 36(5) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), Sch. 1 para. 147(2)(a) (with art. 10)

Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1994, Part II. (See end of Document for details)

- F6** S. 36(6) omitted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 147(2)(b)** (with art. 10)
- F7** Words in s. 36(7) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 147(2)(c)** (with art. 10)

Marginal Citations

- M2** 1986 c. 45.

Changes to legislation:

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