

Status: Point in time view as at 31/10/1994.

Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1994, SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 67.

TRANSITIONAL PROVISIONS AND SAVINGS

General saving for repeal of the Coal Act 1938

- 1 Where this Act repeals any provisions of the ^{M1}Coal Act 1938, that repeal shall not affect so much of this Act or any other enactment as makes provision by reference to anything within the meaning of that Act.

Marginal Citations

M1 1938 c. 52.

Deemed acknowledgments under section 14(3) of the Coal Act 1938

- 2 The repeal by this Act of subsection (3) of section 14 of the Coal Act 1938 shall not have effect so as, at any time after the coming into force of that repeal, to prevent any rights or obligations from arising in accordance with section 64 of the ^{M2}Law of Property Act 1925 (production and safe custody of documents) in respect of an acknowledgment which was deemed under that subsection to have been given to the Coal Commission.

Marginal Citations

M2 1925 c. 20.

Restrictions under section 33 of the Coal Act 1938

- 3 (1) Notwithstanding the repeal by this Act of section 33 of the ^{M3}Coal Act 1938 (consent required for working of coal previously vested in statutory undertakers), where any coal which is vested in the Corporation immediately before the restructuring date is coal which by virtue of that section cannot be worked without the consent of the person in whom any undertaking is vested, the consent of the person in whom that undertaking is for the time being vested shall continue, subject to sub-paragraph (2) below, to be required, on and after that date, for the working of that coal.
- (2) The consent required by virtue of sub-paragraph (1) above for the working of any coal shall, if at any time the undertaking in question is vested in a person having no interest in land supported by that coal, cease from that time to be so required.
- (3) A consent required by virtue of this paragraph shall not be unreasonably withheld.
- (4) Sub-paragraph (3) above does not preclude the right of any person whose consent is sought for the purposes of this paragraph—

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- (a) to give consent subject, so far as may be reasonably requisite—
 - (i) to a condition that the working of the coal shall not be such as to let down any land in which that person is interested in respect of the undertaking in question or shall be limited to working in particular places or in a particular manner, or
 - (ii) to other conditions or limitations as regards the working consented to or the payment of proper compensation for, or the making good of, damage arising therefrom;
 - or
 - (b) to require, as a condition of consent, payment of a reasonable sum in respect of any legal or other expenses incurred in connection with the consent.
- (5) Any question arising under sub-paragraph (3) or (4) above shall be referred to and determined by the High Court or, in the case of coal in Scotland, the Court of Session.
- (6) On a reference under sub-paragraph (5) above, the High Court or Court of Session shall have power to dispense with the required consent either without conditions or limitations or subject to any such conditions or limitations as are mentioned in sub-paragraph (4) above.
- (7) In determining any question referred to it under sub-paragraph (5) above the High Court or Court of Session shall have regard primarily to the safety and efficient working of the undertaking in question.
- (8) The requirements of this paragraph—
- (a) shall be enforceable by the persons in whom the undertaking in question is for the time being vested; and
 - (b) shall be so enforceable in the same manner, and (subject to any transfer of liabilities in accordance with a restructuring scheme) against the same persons, as by virtue of section 33(6) of the ^{M4}Coal Act 1938, it would have been enforceable immediately before the restructuring date by the persons in whom that undertaking was vested at that time.

Marginal Citations

M3 1938 c. 52.

M4 1938 c. 52.

Rights saved by section 34 of the Coal Act 1938

- 4 (1) Neither the repeal by this Act of section 34 of the Coal Act 1938 (saving for certain statutory rights) nor the transfer by or under this Act of any interest in any land vested in the Corporation immediately before the restructuring date shall affect any such right as is referred to in subsection (1) of that section and is a right subject to which any land is held by the Corporation at that time.
- (2) Sub-paragraph (1) above shall be without prejudice to the transfer by or under this Act to any person of the Corporation's liabilities in respect of any such right as is mentioned in that sub-paragraph.

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Saving for rights under section 43(6) of the Coal Act 1938

- 5 The repeal by this Act of section 43 of the ^{M5}Coal Act 1938 (application of that Act in special cases) shall not affect—
- (a) any right of the Forestry Commissioners, as mentioned in subsection (6) of that section, to recover rent accruing on or after the restructuring date;
 - (b) the obligation of those Commissioners in accordance with that subsection to pay that rent to the Corporation or, as the case may be, to the person to whom the Corporation's right to receive that rent has been transferred in accordance with a restructuring scheme; or
 - (c) the obligation under that subsection of the Corporation or, as the case may be, of the person to whom the Corporation's obligations under that subsection have been so transferred to pay to those Commissioners any expenses incurred in the exercise, at any time on or after the restructuring date, of the powers mentioned in that subsection.

Marginal Citations

M5 1938 c. 52.

Licences under section 36 of the 1946 Act

- 6 As well as being subject to the savings in section 25(3) and (4) of this Act, the repeal by this Act of sections 1(1)(a) and (2)(a) and 36 of the 1946 Act (exclusive rights in relation to coal and licences as to certain coal-mining operations) shall be without prejudice to so much of any licence under section 36 of that Act as has effect (with any modifications made in accordance with any provision made under paragraph 4(5) of Schedule 2 to this Act) as a contract between—
- (a) the person to whom it is granted; and
 - (b) the Corporation or, as the case may be, any person to whom the Corporation's rights and liabilities under the licence are transferred in accordance with a restructuring scheme.

Repeal of section 41 of the 1946 Act

- 7 The repeal by this Act of section 41 of the 1946 Act (certain coal industry trusts) shall be without prejudice to the continuing effect after the time when that repeal comes into force of any order made before that time under that section.

Repeal of the Miners' Welfare Act 1952

- 8 The repeal by this Act of the ^{M6}Miners' Welfare Act 1952 shall not affect the application in relation to any trusts of section 2 of the ^{M7}Recreational Charities Act 1958 (certain trusts for the purposes of welfare activities within the meaning of that Act of 1952 to be charitable).

Marginal Citations

M6 1952 c. 23.

M7 1958 c. 17.

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Opencast coal

- 9 (1) Where any compulsory rights order has been made under the ^{M8}Opencast Coal Act 1958 before the restructuring date and is awaiting confirmation on that date, that order may be confirmed on or after that date in accordance with that Act as if it had been made by the Authority on the application of the Corporation.
- (2) The rights conferred on the Corporation by any compulsory rights order made under that Act before the restructuring date shall have effect on and after that date as if conferred on the Corporation and its successors (within the meaning of that Act) so as to be exercisable for the purposes only of—
- (a) operations which the Corporation or, as the case may be, any such successor is authorised to carry out by virtue of being a licensed operator; and
 - (b) operations which are incidental to operations falling within paragraph (a) above (including operations carried out at times when the authorisation for the operations falling within that paragraph is not in force).
- (3) Any application to the Secretary of State for an order under section 15 or 16 of that Act which is pending immediately before the restructuring date shall have effect on and after that date as if made to the Authority; and paragraph (aa) of section 15A(1) of that Act (additional matter to be included in notice of application) shall be disregarded for the purposes of any application to which this sub-paragraph applies.
- (4) An order made under section 15 of that Act before the restructuring date shall not require the confirmation of the Secretary of State.
- (5) The provisions of this Act modifying section 16 of that Act shall not affect the operation of that Act in relation to any order made under that section before the restructuring date.
- (6) On and after the restructuring date compensation payable under that Act shall be payable in respect of any compulsory rights order made before that date as if the Corporation were the person on whose application that order was made.

Marginal Citations

M8 1958 c. 69.

Offshore coal adjacent to the Isle of Man

- 10 (1) On and after the restructuring date the rights in relation to coal under the territorial sea adjacent to the Isle of Man which are vested in the Corporation by virtue of section 2(3) of the 1987 Act shall have effect as comprising the exclusive right of authorising—
- (a) the carrying on of any coal-mining operations for the purpose of searching or boring for that coal; and
 - (b) the carrying on of any coal-mining operations consisting in the winning, working or getting of that coal, in the treatment of that 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 any such treatment of that coal.

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- (2) Where, at any time on or after the restructuring date, there comes into force any Order in Council under section 1 of the 1987 Act for bringing any area outside the Isle of Man and the territorial sea adjacent to the Isle of Man within that territorial sea—
- (a) the rights previously vested in the Authority under this Act in relation to coal in that area shall become exercisable for purposes other than those of the rights of the United Kingdom mentioned in section 1 of the ^{M9}Continental Shelf Act 1964; and
 - (b) those rights shall continue to be vested in the Authority except so far as the Order in Council provides for them to vest at that time in another person.
- (3) The rights in relation to coal under the territorial sea adjacent to the Isle of Man which—
- (a) by virtue of section 2(3) of the 1987 Act, are vested in the Corporation immediately before the restructuring date, or
 - (b) are rights to which sub-paragraph (2) above has applied on the subsequent coming into force of an Order in Council under section 1 of that Act,
- may at any time be surrendered by the person in whom they are vested (whether as mentioned in this paragraph or in accordance with a restructuring scheme) to, or to a person nominated by, the Government of the Isle of Man, and such a surrender shall be on such terms as may be agreed between that Government and the person making the surrender.
- (4) The rights mentioned in sub-paragraph (3) above shall be extinguished if at any time on or after the restructuring date they vest in or are surrendered to the person with the interests and rights of an owner in and in relation to the coal in question.
- (5) In this paragraph “the 1987 Act” means the ^{M10}Territorial Sea Act 1987, as extended to the Isle of Man by the ^{M11}Territorial Sea Act 1987 (Isle of Man) Order 1991.

Marginal Citations

M9 1964 c. 29.

M10 1987 c. 49.

M11 S.I. 1991/1722.

Coal industry trusts and other social welfare bodies

- 11 The repeal by this Act of section 6 of the ^{M12}Coal Industry Act 1987 (coal industry trusts and other social welfare bodies) shall be without prejudice to the continuing effect after the time when that repeal comes into force of any order made before that time under that section.

Marginal Citations

M12 1987 c. 3.

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Interests affected by planning proposals: blight

- 12 (1) The repeals made by this Act in paragraph 1(a)(i) of Schedule 13 to the ^{M13}Town and Country Planning Act 1990 and section 181(1)(a) of the ^{M14}Town and Country Planning (Scotland) Act 1972 (land to which the provisions of those Acts relating to blight notices apply) shall not affect the operation of those Acts on and after the restructuring date in relation to any blight notice served on the Corporation before that date or to anything done in relation to such a notice.
- (2) In this paragraph, “blight notice” means a blight notice within the meaning of Chapter II of Part VI of that Act of 1990 or sections 181 to 196 of that Act of 1972.

Marginal Citations

M13 1990 c. 8.

M14 1972 c. 52.

Subsidence

- 13 (1) Without prejudice to section 1(2) of the 1991 Act, the repeal by this Act of subsection (7) of section 34 of that Act (restriction of remedial obligation in relation to buildings etc. of which no notice was given) shall remove the restriction imposed by that subsection in relation to any remedial obligation which first arose before the restructuring date except where before that date either—
- (a) that obligation was discharged; or
 - (b) terms of settlement in respect of any claim relating to that obligation were finally agreed or determined.
- (2) Without prejudice to section 37(4) of the 1991 Act (saving for agreements), the provisions of this Act and of that Act relating to any person who is the responsible person in relation to any subsidence damage, or who would be the responsible person if any such damage occurred, shall not affect any rights or obligations in connection with that damage which arise—
- (a) under or in pursuance of a restructuring scheme,
 - (b) under or in pursuance of the conditions of any licence under Part II of this Act, or
 - (c) apart from this Act,
- as between different persons who are or have at any time been licensed operators, or as between the Authority and any one or more such persons.
- (3) Without prejudice to any power conferred by section 13 of the ^{M15}Interpretation Act 1978 (anticipatory exercise of powers), subordinate legislation which—
- (a) is made before the restructuring date under any power contained in the 1991 Act and after any such consultation as may be required for any exercise of that power before that date, and
 - (b) is made so as not to come into force until on or after that date,
- may contain any such provision as may be contained in any subordinate legislation made on or after that date in exercise of that power as amended by this Act.

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Marginal Citations

M15 1978 c. 30.

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