

Status: Point in time view as at 31/10/1994.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 8. (See end of Document for details)

SCHEDULES

SCHEDULE 8

Section 52.

AMENDMENTS OF THE OPENCAST COAL ACT 1958

Introduction

1 The ^{M1}Opencast Coal Act 1958 shall be amended as follows.

Marginal Citations

M1 1958 c. 69.

Power to make compulsory rights orders

- 2 (1) In subsection (1) of section 4 (compulsory rights order)—
- (a) for the words “the Corporation”, in each place where they occur, there shall be substituted “ the Coal Authority ”;
 - (b) for the words “compulsorily acquire” there shall be substituted “ confer ”; and
 - (c) for the words “the whole or part of any land on which they desire” there shall be substituted “ the whole, or such part as (subject to the confirmation of the Secretary of State) the Coal Authority thinks fit, of any land on which the applicant for the order desires ”.
- (2) After that subsection there shall be inserted the following subsections—
- “(1A) The Coal Authority shall not make a compulsory rights order except on the application of a person who satisfies that Authority—
- (a) that he is either a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to that Authority for a licence under Part II of that Act is pending; and
 - (b) that he has served notice in the prescribed form of the application for the order on every person who is known to him to be a person who would, in relation to the order applied for, be directly concerned.
- (1B) Subject to the provisions of section 5 of this Act, the rights conferred by an order made on such an application as is mentioned in subsection (1A) of this section shall be conferred on the applicant and his successors so as to be exercisable for the purposes only of—
- (a) operations which the applicant or, as the case may be, any such successor is authorised to carry out by virtue of being a licensed operator within the meaning of the Coal Industry Act 1994; and
 - (b) operations which are incidental to operations falling within paragraph (a) above (including operations carried out at times when

Status: Point in time view as at 31/10/1994.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 8. (See end of Document for details)

the authorisation for the operations falling within that paragraph is not in force).”

- (3) In subsection (5) of that section (which has effect in relation to Scotland for applying enactments relating to compulsory purchase and giving effect to Part I of Schedule 2 to the Act), after the first “to the” there shall be inserted “ Scottish ”; and subsection (8) of that section shall cease to have effect.

Effect of orders

- 3 (1) In subsection (2) of section 5 (effect of order), for “The Corporation” there shall be substituted “ The person on whose application the order has been made ”.
- (2) In subsections (4) and (5) of that section—
- (a) for the words “the Corporation”, in the first place where they occur in each subsection, there shall be substituted “ the person entitled to the rights conferred by the order ”; and
 - (b) for the words “the Corporation”, in the second and third places where they occur in each subsection, there shall be substituted “ that person ”.
- (3) After subsection (5) of that section there shall be inserted the following subsections—
- “(5A) Subject to subsection (5B) of this section, the rights conferred by a compulsory rights order—
- (a) shall be exercisable by a successor of the original applicant for the order only where the Coal Authority has transferred to that successor the entitlement to exercise the rights conferred by the order; but
 - (b) where the Coal Authority has so transferred them, shall not, at any time after the transfer, be exercisable by any person in his capacity as the original applicant or as a previous successor of that applicant;
- and references in this Act to the person entitled to the rights conferred by a compulsory rights order are references to the person who is for the time being the person by whom those rights are exercisable in accordance with section 4(1B) of this Act and this section.
- (5B) Where at any time after an application for a compulsory rights order has been made and before any order made on that application is confirmed—
- (a) any person becomes the successor of the original applicant for the order and notifies that fact—
 - (i) if no order has been made on the application, to the Coal Authority, or
 - (ii) if such an order has been made, to the Secretary of State,

and
 - (b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,

the provisions of this Act and of any enactment applied by this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.
- (5C) The Coal Authority or, as the case may be, the Secretary of State—

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 8. (See end of Document for details)

- (a) shall make a transfer under subsection (5A) of this section by giving written notice of the transfer to each of the persons who, in consequence of the transfer, is to cease to be, or is to become, entitled to the rights conferred by the order;
- (b) may by notice to the successor make any modifications of a compulsory rights order which are necessary in consequence only of the making of a transfer under subsection (5A) of this section; and
- (c) may make a decision to proceed in accordance with subsection (5B) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.”

Limitations on effect of orders

- 4 In section 7 (rights not affected by order)—
- (a) in subsection (2)(c)—
 - (i) for “authorisation” there shall be substituted “ opencast planning permission ”;
 - (ii) for “the Corporation have” there shall be substituted “ the person entitled to the rights conferred by the compulsory rights order has ”; and
 - (iii) for the words from “under” to “applied” there shall be substituted “ under the provisions of the Act of 1990, applied ”;
 - (b) in subsection (3)(a)—
 - (i) for “made by the Corporation and” there shall be substituted “ to which the person entitled to the rights conferred by the compulsory rights order is or is deemed to be a party and which is ”; and
 - (ii) for “the Corporation are” there shall be substituted “ that person is ”;
- and
- (c) for subsections (8) and (9) of that section there shall be substituted—
 - “(8) In this section—
 - “statutory water undertakers” means—
 - (i) in England and Wales, the National Rivers Authority, a water undertaker or a sewerage undertaker; and
 - (ii) in Scotland, a water authority within the meaning of the Water (Scotland) Act 1980;
 - “local enactment”—
 - (i) in England and Wales, means any local statutory provision within the meaning of the Water Industry Act 1991; and
 - (ii) in Scotland, has the same meaning as in the Water (Scotland) Act 1980;
- and, in the application of this section to Scotland, for any reference to the Act of 1990 there shall be substituted a reference to the Town and Country Planning (Scotland) Act 1972.”

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 8. (See end of Document for details)

Limited compulsory rights orders

- 5 In subsection (3)(b) of section 8 (modification of section 5(4))—
- (a) for the words “the Corporation”, in the first and second places where they occur, there shall be substituted “ the person entitled to the rights conferred by the order ”; and
 - (b) for the words “the Corporation”, in the third place where they occur, there shall be substituted “ that person ”.

Provisions as to other minerals, timber, crops, etc.

- 6 In subsections (1) to (3) of section 10 (rights in relation to other minerals, timber, crops, etc.)
- (a) for the words “the Corporation”, in the first and last places where they occur in each subsection, there shall be substituted “ the person entitled to the rights conferred by the order ”; and
 - (b) for the words “the Corporation”, wherever else they occur in each subsection, there shall be substituted “ that person ”.

Registration of orders in Scotland

- 7 In section 11(4) (registration in the register of sasines)—
- (a) for the words “the Corporation”, in the first place where they occur, there shall be substituted “ the person on whose application it was made ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ the person entitled immediately before it ceases to have effect to the rights conferred by the order ”.

Removal of chattels from land

- 8 (1) In subsection (1) of section 12 (rights to remove chattels from land affected by compulsory rights order), for “the Corporation” there shall be substituted “ the person entitled to the rights conferred by the order ”.
- (2) In subsection (2) of that section, for “the Corporation” there shall be substituted “ the person who served the notice ”.
- (3) After that subsection there shall be inserted the following subsection—
- “(2A) Where the person who has served a notice under subsection (1) of this section ceases, without exercising any power under subsection (2) of this section, to be the person entitled to the rights under the compulsory rights order, that notice shall cease to have effect for the purposes of this section.”
- (4) In subsection (3) of that section—
- (a) for “the Corporation cause” there shall be substituted “ any person causes ”;
 - (b) for “the last preceding subsection” there shall be substituted “ subsection (2) of this section ”;
 - (c) for the words “the Corporation”, in the second and third places where they occur, there shall be substituted “ that person ”; and
 - (d) for the words “the Corporation”, in the fourth place where they occur, there shall be substituted “ the person who caused the chattel to be removed ”.

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 8. (See end of Document for details)

- (5) In subsection (4) of that section, for the words “the Corporation”, in each place where they occur, there shall be substituted “ the person who makes the sale ”.

Apparatus of statutory undertakers

- 9 Section 13 (effect in relation to apparatus of statutory undertakers of opencast planning permission) shall cease to have effect.

Agricultural tenancies in England and Wales

- 10 In section 14(6) (arbitration under section 12 of the ^{M2}Agricultural Holdings Act 1986 in cases where opencast planning permission has been granted)—
- (a) for “the Corporation are” there shall be substituted “ the person with the benefit of the opencast planning permission is ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ that person ”.

Marginal Citations

M2 1986 c. 5.

Agricultural tenancies in Scotland

- 11 (1) In subsection (6)(a) of section 14A (modification of section 22(2) of the ^{M3}Agricultural Holdings (Scotland) Act 1991), for “the British Coal Corporation” there shall be substituted “ a person who is a licensed operator within the meaning of the Coal Industry Act 1994 or whose application for a licence under Part II of that Act is pending ”.
- (2) In subsection (8) of that section (arbitration under section 13 of that Act of 1991)—
- (a) for “the Corporation are” there shall be substituted “ the person with the benefit of the opencast planning permission is ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ that person ”.

Marginal Citations

M3 1991 c. 55.

Suspension of rights of way

- 12 (1) In subsection (1) of section 15 (orders for suspension of right of way)—
- (a) in paragraph (a), for “the Corporation apply” there shall be substituted “ any person applies ”; and
 - (b) in the words after paragraph (b), for “the Corporation may also apply to the Secretary of State” there shall be substituted “ that person may also apply to the Coal Authority ”.
- (2) In subsection (2) of that section—

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 8. (See end of Document for details)

- (a) for “Secretary of State shall not make such an order” there shall be substituted “ Coal Authority shall not make an order under this section ”;
 - (b) in paragraph (a), for “is granted” there shall be substituted “ has been applied for or granted ”; and
 - (c) in paragraph (b), for the words from the beginning to “the Corporation” there shall be substituted—
 - “(aa) it is satisfied that the applicant—
 - (i) is a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to the Coal Authority for a licence under Part II of that Act is pending; and
 - (ii) has complied with the requirements of section 15A of this Act before submitting the application;
 - and
 - (b) it is also satisfied—
 - (i) that a suitable alternative way will be made available by the applicant”.
- (3) For subsection (3) of that section there shall be substituted the following subsections—
- “(3) An order under this section—
- (a) shall not have effect unless confirmed by the Secretary of State; and
 - (b) where it has been confirmed, shall have effect (with such modifications as the Secretary of State may in confirming it determine) so as to suspend the right of way to which it relates with effect (subject to section 15A(10) and (11) of this Act) from such date as may be determined by the Secretary of State and specified in the order as confirmed.
- (3A) Where at any time after an application for an order under this section has been made and before any order made on that application is confirmed—
- (a) any person becomes the successor of the original applicant for the order and notifies that fact—
 - (i) if no order has been made on the application, to the Coal Authority, or
 - (ii) if such an order has been made, to the Secretary of State,
 - and
 - (b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,
- the provisions of this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.
- (3B) The Coal Authority or, as the case may be, the Secretary of State may make a decision to proceed in accordance with subsection (3A) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.”

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 8. (See end of Document for details)

- (4) In subsection (4) of that section, after paragraph (b) there shall be inserted “or
- (c) he is satisfied that it is appropriate to do so on account of any failure on the part of the person on whose application the order was made to comply with any of the requirements of section 15A(10) of this Act.”
- (5) In subsection (5) of that section, for the words from “include” to “to”, in the second place where it occurs, there shall be substituted “ not be made except where such conditions for the making of the order are imposed or such other provision is included in the order as may ”.
- (6) After subsection (5) there shall be inserted the following subsection—
- “(5A) For the purposes of subsection (5) above a local planning authority may enter into an agreement with any applicant for an order under this section as to the steps to be taken by that person or any of his successors for securing the reconstruction of the way in question; and such an agreement shall have effect, so far as it relates to steps to be taken by any successor of the applicant, as if that successor had been a party to it and was bound by it to the same extent as the applicant.”

Supplementary provisions about suspension of rights of way

- 13 (1) In subsection (1) of section 15A (supplementary provisions in relation to the suspension of rights of way)—
- (a) for the words from the beginning to the words “the Corporation”, in the first place where they occur, there shall be substituted—
- “(1) Before any person submits an application to the Coal Authority for an order under section 15 of this Act, that person”;
- (b) in paragraph (a), for “the Corporation are” there shall be substituted “ that person is ”;
- (c) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) whether the applicant is proposing to make available any alternative way and, if he is, what the alternative is; and”;
- (d) paragraph (c) (notice to specify objection procedure) and the word “and” immediately preceding it shall be omitted.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) As soon as reasonably practicable after making an order under section 15 of this Act the Coal Authority shall submit the order to the Secretary of State for confirmation and publish a notice in the prescribed form identifying the right of way in question and stating—
- (a) that the Coal Authority has made an order that will suspend the right of way in connection with the working of coal by opencast operations and has submitted the order for confirmation to the Secretary of State;
- (b) whether the applicant for the order is to make any alternative way available and, if he is, what the alternative is;
- (c) that opencast planning permission has been applied for or, as the case may be, granted;and

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 8. (See end of Document for details)

- (d) that objections to the confirmation of the order may be made in writing to the Secretary of State within such time, not being less than 28 days from the publication of the notice, as may be specified.”
- (3) In subsection (2) of that section, after “subsection (1)” there shall be inserted “ or (1A) ”.
- (4) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The Secretary of State shall not confirm an order under section 15 of this Act unless he thinks fit and—
- (a) he is satisfied that the notice required by subsection (1A) above has been published in relation to that order and that the requirements of subsection (5) below have been satisfied in relation to that notice;
- (b) the period within which objections may be made in accordance with that notice has expired; and
- (c) the opencast planning permission has been granted.”
- (5) In subsection (4) of that section—
- (a) after “subsection (1)” there shall be inserted “ or (1A) ”; and
- (b) after “the application” there shall be inserted “ or, as the case may be, the order ”.
- (6) In subsection (5) of that section—
- (a) for the words from the beginning to “the Secretary of State” there shall be substituted—
- “(5) Where any person is required under subsection (1) or (1A) above to publish any notice, he shall also—”;
- (b) in paragraph (a), for the words from “of the right” onwards there shall be substituted (after sub-paragraph (ii))— “ of the submission of the application or, as the case may be, of the making of the order; ”
- (c) in paragraph (b), for “their notice under subsection (1) above” there shall be substituted “ the notice under subsection (1) or (1A) above ”; and
- (d) in paragraph (c), for the words from “their” onwards there shall be substituted “ the matters contained in the notice under subsection (1) or (1A) above. ”
- (7) Subsection (6) of that section shall cease to have effect.
- (8) In subsection (7) of that section—
- (a) for “make” there shall be substituted “ confirm ”; and
- (b) after “authority” there shall be inserted “ other than a parish or community council or parish meeting as is mentioned in subsection (5)(a) above ”.
- (9) In subsection (8) of that section, for “make” there shall be substituted “ confirm ”.
- (10) In subsection (9) of that section—
- (a) the word “Corporation’s” shall be omitted;
- (b) for “the Secretary of State” there shall be substituted “ the Coal Authority ”; and
- (c) at the end there shall be inserted “ ; and this subsection shall be without prejudice to the power of the Secretary of State, by virtue of subsection (3) of that section, to make further modifications when confirming the order. ”

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 8. (See end of Document for details)

- (11) In subsection (10) of that section—
- (a) for the words from the beginning to “publish” there shall be substituted—
 - “(10) A confirmed order under section 15A of this Act shall not have effect at any time before the person on whose application the confirmed order was made has published”;
 - (b) for “has been made” there shall be substituted “ has been confirmed ”;
 - (c) for “comes” there shall be substituted “ is to come ”; and
 - (d) for “shall serve a like notice and a copy of the order” there shall be substituted “ has served a like notice and a copy of the order and of such a map ”.
- (12) In subsection (11) of that section, for paragraphs (a) and (b) there shall be substituted “ in the manner specified in subsection (2) in relation to notices for the purposes of subsection (1) above; and an order that fails, by virtue of subsection (10) above, to come into operation on the date specified in the order shall come into operation on the date of the last publication required by virtue of this subsection. ”

Orders conferring rights for drainage or water supply purposes

- 14 (1) In subsections (1) and (2) of section 16 (orders for drainage and water supply purposes), for the words from “granted” to “compulsorily”, in each subsection, there shall be substituted “ applied for or granted, the Coal Authority, on an application in accordance with subsection (2A) below, may, by means of an order made by that Authority and confirmed by the Secretary of State, confer on the person with the benefit of the permission ”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The Coal Authority shall not make an order under this section except on the application of a person who—
- (a) is the person with the benefit of the opencast planning permission or, where the permission has been applied for but has not been granted, the person who will have the benefit of that permission;
 - (b) satisfies that Authority that he is either a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to that Authority for a licence under Part II of that Act is pending; and
 - (c) also satisfies that Authority that he has served notice in the prescribed form of the application for the order on every owner, lessee and occupier of the other land (except tenants for a month or any period of less than a month);
- and an order made before the opencast planning permission has been granted shall not be confirmed until after it has been granted.”
- (3) In subsection (3) of that section—
- (a) for “authorising the compulsory purchase of” there shall be substituted “ conferring ”;
 - (b) after “was” there shall be inserted “ applied for or ”; and
 - (c) for “acquired” there shall be substituted “ conferred ”.

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 8. (See end of Document for details)

- (4) For subsection (4) of that section (effect of order), including that subsection as substituted for Scotland by subsection (9) of that section, there shall be substituted the following subsection—

“(4) Any right conferred by an order under this section shall be exercisable by, or by any person authorised by—

(a) a person who—

- (i) is for the time being in occupation of the land specified in accordance with subsection (3) of this section in the order;
- (ii) is the person on whom the right was conferred; and
- (iii) was in occupation of that land when it was conferred;

or

(b) a person who is for the time being in occupation of the land by virtue of the transfer to him either—

- (i) by, or with the written approval of, the Coal Authority, or
- (ii) in any other case described in the order,

of any interest or right which, at the time when the right was conferred under this section, was vested in a person who became entitled to exercise it by virtue of paragraph (a) above;

and a right conferred by an order under this section (whether or not conferred while the person on whom it was conferred was in occupation of the land) shall, in the case of land in England and Wales, be treated as an easement appurtenant in perpetuity to that land, and, in the case of land in Scotland, be recorded in the Register of Sasines or as the case may be registered in the Land Register of Scotland by the person on whom the right is conferred.”

- (5) In subsection (4A) of that section (which for England and Wales provides for the application of compulsory purchase legislation), for the words from the beginning to “as if” there shall be substituted—

“(4A) For the purposes of any order conferring rights exercisable under this section on any land in England and Wales—

(a) Parts II to IV of the Acquisition of Land Act 1981 shall apply as they would apply in relation to a compulsory rights order in which that land is comprised, and section 29 of that Act shall apply accordingly but with the omission of subsections (4) and (5); and

(b) the Compulsory Purchase Act 1965 shall have effect as if—

- (i) the conferring of those rights were the compulsory acquisition of those rights by the person on whom they are conferred; and

(ii)”.

- (6) After subsection (4A) of that section there shall be inserted the following subsections—

“(4B) Where at any time after an application for an order under this section has been made and before any order made on that application is confirmed—

(a) any person becomes the successor of the original applicant for the order and notifies that fact—

- (i) if no order has been made on the application, to the Coal Authority, or

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 8. (See end of Document for details)

(ii) if such an order has been made, to the Secretary of State,
and

(b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,

the provisions of this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.

(4C) The Coal Authority or, as the case may be, the Secretary of State may make a decision to proceed in accordance with subsection (4B) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.”

(7) For subsection (5) of that section there shall be substituted the following subsection—

“(5) In relation to any order conferring rights exercisable under this section as regards any land in Scotland Parts I, III and IV of Schedule 1 to the Scottish Acquisition of Land Act (and the enactments incorporated with that Act) shall apply as they would apply in relation to a compulsory rights order in which that land is comprised, and section 4(5) of this Act shall apply accordingly but as if the section did not relate to paragraphs 3 and 4 of Schedule 2 to this Act.”

(8) In subsection (6) of that section, for “a compulsory purchase order made by virtue of” there shall be substituted “an order made and confirmed under”.

(9) After subsection (7) of that section there shall be inserted the following subsection—

“(7A) Subsections (2) and (3) of section 12 of the Acquisition of Land Act 1981 (statutory tenants etc. and ecclesiastical property) shall have effect in relation to the service of a notice under this section as respects any land in England and Wales as they have effect in relation to the service of a notice under that section.”

(10) Subsection (9) of that section shall cease to have effect.

Annual compensation

15 (1) In subsection (1) of section 17 (general provisions as to annual compensation)—

- (a) the words “by the Corporation” shall be omitted; and
- (b) in paragraph (b), after “falls” there shall be inserted “wholly or partly”.

(2) After that subsection there shall be inserted the following subsection—

“(1A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.”

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 8. (See end of Document for details)

- (3) In subsection (2) of that section, for “in the Corporation” there shall be substituted “in the Coal Authority or the person entitled to rights conferred by the order”.
- (4) In subsection (3) of that section—
- (a) at the beginning there shall be inserted the words “Subject to subsection (3A) of this section,”; and
 - (b) the words “by the Corporation” shall be omitted.
- (5) After that subsection there shall be inserted the following subsections—
- “(3A) Where—
- (a) any compensation is payable for any year by virtue of this section in respect of any holding, and
 - (b) the amount of that compensation falls to be calculated in accordance with section 18 of this Act by reference to the market value of rights which, if the compulsory rights order were not in force, could not be conferred for that year or any part of it except by or with the consent of one or more persons who are included in the persons directly concerned but do not fall within subsection (3) of this section,
- the entitlement to that compensation shall be apportioned, according to the extent to which those rights could not be conferred for that year or part of a year without their participation or consent, between those persons and any person falling within that subsection.
- (3B) Subject to subsection (3C) of this section, the persons entitled under subsection (3A) of this section to a share of any compensation shall include persons whose participation in or consent to the conferring of any right would be required if the right were conferred at some time after the beginning of the year or part of a year in question; and any apportionment under subsection (3A) of this section shall take account of the length of the period for which any person is, during that year or part of a year, a person without whose participation or consent any right could not be conferred.
- (3C) No person shall be entitled under subsection (3A) of this section to any share of any compensation in respect of any such easement or right as might give rise to an entitlement to compensation under section 31 of this Act.”
- (6) Subsection (4) of that section shall cease to have effect.
- (7) Sub-paragraphs (5) and (6) above shall not apply in relation to any compulsory rights order confirmed before the restructuring date.

Calculation of compensation

- 16 In relation to any compulsory rights order confirmed on or after the restructuring date the following section shall be substituted for section 18, that is to say—

“18 Calculation of compensation undersection 17.

- (1) The compensation payable for any year in respect of a holding to which section 17 of this Act applies shall be a sum equal to the annual borrowing cost for that year of the market value of the rights conferred by the compulsory rights order in relation to the holding.

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 8. (See end of Document for details)

- (2) For the purposes of this section the market value of any rights conferred by a compulsory rights order shall be equal to the amount which, as at the date of entry, would (apart from the order) represent the fair market price, as between willing and independent parties, for the grant of those rights by a person entitled to grant them and for the period for which the order is to have effect.
- (3) In calculating for the purposes of this section the fair market price for the grant of any rights, due allowance shall be made for any entitlement to compensation which may arise, otherwise than by virtue of section 17, under any of the provisions of this Act.
- (4) For the purposes of this section the annual borrowing cost for any year of any amount (“the market price”) is the aggregate sum which would fall to be paid in that year by way of payments of interest and re-payments of capital if the market price had been borrowed on the date of entry on terms which—
- (a) required interest to be paid and capital to be repaid by way of the relevant number of equal annual instalments; and
 - (b) provided for interest on outstanding capital to become due immediately before the time for the payment of each instalment, at an annual rate equal, as at the entry date, to the rate prescribed under section 35(8) of this Act;
- and in this subsection “the relevant number” means the number of years for which, when it was confirmed, the compulsory rights order was to have effect.
- (5) Nothing in section 17 of this Act or this section shall confer any entitlement to compensation in respect of the annual borrowing cost of—
- (a) any amount representing the value of any person’s interest in coal, or
 - (b) any amount representing the value of any opportunity arising by virtue of an interest or right in or in relation to any land to obtain or make use of any rights to win, work or get any coal.
- (6) Where the period for which a compulsory rights order is to have effect is extended under this Act, section 17 of this Act and this section shall have effect in relation to the additional period as if the rights conferred for that period had been conferred by a new compulsory rights order.”

17 Sections 19 and 20 (additional annual compensation and special compensation for cost of removal) shall not have effect in relation to any compulsory rights order confirmed on or after the restructuring date.

Terminal compensation

18 In section 21(1) (terminal compensation), for “by the Corporation in respect of that holding” there shall be substituted “ in respect of that holding by the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order. ”

Compensation in respect of agricultural land

19 (1) In section 23A (compensation with a view to furthering the resumption of agriculture)—

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 8. (See end of Document for details)

- (a) for the words “sections 18 and 19”, wherever they occur, there shall be substituted “ section 17 ”; and
 - (b) in subsection (4), for “by the Corporation” there shall be substituted “ by the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order ”.
- (2) Sub-paragraph (1)(a) above does not apply in relation to any compulsory rights order confirmed before the restructuring date.

Compensation for short term improvements etc.

- 20 (1) In subsection (1) of section 26 (compensation in respect of short term improvements and other matters)—
- (a) for “the Corporation occupy” there shall be substituted “ any person occupies ”; and
 - (b) for “by the Corporation” there shall be substituted “ by that person ”.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) Compensation shall not be payable by virtue of this section where a person’s occupation of any land, in exercise of rights conferred by a compulsory rights order, is confined to replacing in occupation a person previously entitled to exercise the rights conferred by that order.”
- (3) In subsection (3) of that section, the words “by the Corporation” shall be omitted.

Compensation in respect of forced sales

- 21 (1) In subsection (1) of section 27 (compensation for forced sales), for “the Corporation” there shall be substituted “ the person on whose application the compulsory rights order was made ”.
- (2) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) Where, in the case of any sale in respect of which compensation is payable under this section, a person other than the person who applied for the order is entitled, on the effective date of the sale, to the rights conferred by the compulsory rights order, that compensation shall be payable by the person entitled to those rights, instead of by the person who applied for the order.”
- (3) In subsection (3) of that section—
- (a) for the words “the Corporation”, in the first place where they occur, there shall be substituted “ the person potentially liable ”; and
 - (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ the person to whom the notice was given, or any person designated for the purpose by him, ”.
- (4) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) In this section—
- “effective date”, in relation to a sale, means the date on which the property sold becomes the property of the purchaser; and
 - “the person potentially liable”, in relation to a notice relating to a sale, means the person on whom the liability to pay the

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 8. (See end of Document for details)

compensation will fall on the effective date of the sale if the person entitled to the rights conferred by the compulsory rights order in question does not change before that date.”

Compensation: definition of holding

- 22 (1) In subsection (1) of section 29 (definition of holding for certain purposes of compensation), for “the Corporation” there shall be substituted “ the Coal Authority or any licensed operator (within the meaning of the Coal Industry Act 1994) ”.
- (2) In subsection (2) of that section, for “(3) and (4) of section seventeen of this Act, the provisions of sections eighteen to twenty of this Act” there shall be substituted “ (1A) and (3) to (3B) of section 17 of this Act and the provisions of section 18 of this Act ”.

Compensation in respect of easements and other rights

- 23 (1) In subsection (2) of section 31 (annual compensation in respect of easements and other rights)—
- (a) after “falls” there shall be inserted “ wholly or partly ”; and
 - (b) the words “from the Corporation” shall be omitted.
- (2) After that subsection there shall be inserted the following subsection—
- “(2A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under subsection (2) of this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.”
- (3) In paragraphs (a) and (b) of subsection (3) of that section (terminal compensation in respect of easements and other rights), for the words “the Corporation”, where they occur in each paragraph, there shall be substituted “ the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order ”.

Compensation in respect of disposable minerals

- 24 (1) After section 31, there shall be inserted the following section—
- “31A Compensation in respect of disposable minerals.**
- (1) The provisions of this section shall have effect where—
 - (a) any person (“the operator”) exercises any right of his by virtue of a compulsory rights order and section 10(1) to this Act to get any minerals other than coal; and
 - (b) the land where the right is exercised was not comprised in that order in the circumstances specified in section 33(1) of this Act.
 - (2) The person who, apart from the compulsory rights order and section 10(1) of this Act, would have been entitled to the minerals shall be entitled (subject to the following provisions of this section) to compensation from the operator of an amount equal to 12.5 per cent. of the market value of the minerals at the time when the right is exercised.

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 8. (See end of Document for details)

- (3) Where, in the case of any minerals, it would be reasonable for steps for making them saleable or for enhancing their value to be taken on the land between—
- (a) the time when those minerals are got, and
 - (b) any sale of the minerals by the operator from the land,
- it shall be assumed, for the purpose of determining the market value of those minerals as at the time mentioned in subsection (2) above, that the minerals were in the same condition at the time so mentioned as they would have been had those steps already been taken.
- (4) Any question for the purposes of subsection (3) above as to the extent to which it would be reasonable for any steps to be taken in relation to any minerals shall be determined as at the time mentioned in paragraph (a) of that subsection and on the assumption that it is not reasonable for steps to be taken where the total cost to the operator of taking those steps is equal to or more than the difference between—
- (a) what would be the market value of the minerals for the purposes of subsection (2) above if it were reasonable for those steps to be taken; and
 - (b) what would be their market value for those purposes if it were not; and for this purpose, where the minerals would not be saleable without the taking of those steps, the market value referred to in paragraph (b) above shall be taken to be nil.
- (5) Where more than one person is entitled to compensation under this section, the amount of compensation mentioned in subsection (2) above shall be apportioned between them according to the values of the interests or rights in respect of which each of them would have been entitled to, or to a share of, the minerals.
- (6) As soon as reasonably practicable, after the end of every period of twelve months during which any person has exercised such a right as is mentioned in subsection (1) above, that person shall give written notice under this subsection to every person appearing to him to be a person entitled to compensation under this section in respect of any exercise by him during that period of that right.
- (7) A notice under subsection (6) above shall—
- (a) describe the minerals in respect of which the entitlement to compensation of the person given the notice arises; and
 - (b) state the amount appearing to the person giving the notice to be the amount which for the purposes of subsection (2) above is to be taken to be the market value of those minerals as at the time when the right in question was exercised in relation to those minerals.”

- (2) This paragraph shall not apply where the right in question is exercisable by virtue of a compulsory rights order confirmed before the restructuring date.

Compensation for depreciation of land in same ownership

- 25 (1) In subsection (2) of section 32 (annual compensation in respect of depreciation of land in the same ownership)—

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 8. (See end of Document for details)

- (a) after “falling” there shall be inserted “ wholly or partly ”; and
- (b) the words “from the Corporation” shall be omitted.

(2) After that subsection there shall be inserted the following subsections—

“(2A) Subject (where different persons have been entitled to the rights for different parts of the year) to any apportionment under section 35(3) of this Act, the liability to pay compensation under subsection (2) of this section shall fall on the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order.

(2B) For the purposes of subsection (2) of this section the annual value of any land for any year shall be taken to be an amount equal to the annual rent at which, immediately before the beginning of that year, that land, in the appropriate circumstances, might reasonably have been expected to be let from year to year under a contract of tenancy whereby the tenant undertook—

- (a) to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and
- (b) not to carry out any operations on the land, or to make any change in the use thereof, for which permission would be required under Part III of the Act of 1990 or Part III of the Town and Country Planning (Scotland) Act 1972, except any operations for which such permission has been granted and is in force immediately before the beginning of that year.”

(3) In subsection (3) of that section, for the words before paragraph (a) there shall be substituted—

“(3) For the purposes of subsection (2B) of this section, the appropriate circumstances—”.

(4) In subsection (4) of that section (terminal compensation in respect of depreciation of land in same ownership), for “the Corporation” there shall be substituted “ the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order, and that compensation shall be ”.

Time when compensation accrues

26 (1) In subsection (1) of section 35 (introduction to provisions as to time when compensation accrues), for “the Corporation” there shall be substituted “ any person ”.

(2) In subsection (2) of that section—

- (a) in paragraph (a), for “the Corporation shall” there shall be substituted “ every person potentially liable for the compensation shall, on account of any compensation that may become payable by him at the end of the year, ”;
- (b) in paragraph (b), for “the Corporation shall not be required to make payments” there shall be substituted “ the requirement to make payments shall not arise ”;
- (c) in paragraph (c), for “to any person for any year” there shall be substituted “ for any year by any person to another ”; and
- (d) in paragraph (d)—

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 8. (See end of Document for details)

- (i) for “to a person for any year” there shall be substituted “ for any year by any person to another ”;
- (ii) for “to him for that year, the Corporation” there shall be substituted “ for that year by that person to that other person, the person who paid it ”; and
- (iii) for “to that person” there shall be substituted “ by him to that other person ”.

(3) After subsection (6) of that section there shall be inserted the following subsection—

“(6A) Any compensation payable under section 31A of this Act shall accrue due at the end of the year in which the right in question is exercised.”

- (4) In subsection (7) of that section, the words “by the Corporation” shall be omitted, and for “subsections (4) to (6)” there shall be substituted “ subsections (4) to (6A) ”.
- (5) In subsection (9) of that section, at the end there shall be inserted the words “ ; and references in this section to a person potentially liable to compensation, in relation to any time during a year at the end of which compensation may become payable under this Act, are references to the person on whom the liability to pay the compensation will fall at the end of the year if the person entitled to the rights conferred by the compulsory rights order in question does not change before the end of the year. ”

Records of condition of land

- 27 (1) In subsection (1) of section 36 (records of condition of land to which compulsory rights order relates), for “the Corporation” there shall be substituted “ a person entitled to the rights conferred by a compulsory rights order ”.
- (2) In subsection (2) of that section (record of initial condition of land)—
- (a) for the words “the Corporation have” there shall be substituted “ any person has ”; and
 - (b) for the words “the Corporation shall” there shall be substituted “ that person shall ”.
- (3) In subsection (3) of that section (record of condition of land at end of period of occupation), for “the Corporation shall, at the end of the period of occupation” there shall be substituted “ the person entitled immediately before the end of the period of occupation to the rights conferred by the order shall, at the end of that period ”.
- (4) In subsection (5) of that section (service of records), for “the Corporation have caused a record to be made under this section they” there shall be substituted “ any person has caused a record to be made under this section, he ”.
- (5) In subsections (6), (7) and (8) of that section, for the words “the Corporation”, in each place where they occur, there shall be substituted “ the person who served the record ”.
- (6) In subsection (9) of that section, for “the Corporation” there shall be substituted “ persons required to make records under this section ”.
- (7) After subsection (9) there shall be inserted the following subsection—
- “(9A) If any person fails to cause any record to be made or served in accordance with any requirement imposed on him by this section—

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 8. (See end of Document for details)

- (a) his obligation to comply with that requirement shall be enforceable by the Coal Authority as if it were a duty owed by that person to that Authority; and
- (b) without prejudice to its rights by virtue of paragraph (a) above, that Authority may itself cause the record to be made and served in accordance with that requirement and may recover any expenses reasonably incurred in doing so from the person in contravention of that requirement.”

Protection of land from compulsory purchase

28 In section 38 (exclusion from compulsory purchase order of land subject to opencast planning permission)—

- (a) in paragraph (a), for “the Corporation” there shall be substituted “a relevant person”;
- (b) in paragraph (b), for “the Corporation give” there shall be substituted “that relevant person gives”; and
- (c) at the end there shall be inserted—

“ In this section “relevant person” means any licensed operator within the meaning of the Coal Industry Act 1994 or any person who is certified by the Coal Authority as a person whose application to that Authority for a licence under Part II of that Act is pending. ”

Entry on land

29 (1) In subsection (1) of section 39 (designation of land for the purposes of certain rights of entry), after “may” there shall be inserted “on the application of the Coal Authority”.

(2) In subsection (2) of that section—

- (a) for “the Corporation” there shall be substituted “the Coal Authority”; and
- (b) in paragraph (c), for “the Corporation think fit” there shall be substituted “the Coal Authority may think fit to authorise him to dispose of”.

(3) In subsections (3) and (7) of that section, for the words “the Corporation”, wherever they occur, there shall be substituted “the Coal Authority”.

(4) The references in subsections (3)(d) and (5) of that section to section 15A(4)(c) shall be construed as references to section 15A(5)(c), and shall be deemed always to have fallen to be so construed.

(5) After subsection (7) of that section there shall be inserted the following subsections—

“(7A) The persons who may be authorised by the Coal Authority to exercise the powers conferred by this section shall include any person who proposes to exercise those powers for the purposes and on behalf of any person who is or has applied to become a licensed operator within the meaning of the Coal Industry Act 1994; but where—

- (a) any person does exercise powers under this section for the purposes of such a person, and

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 8. (See end of Document for details)

- (b) his written authority specifies that person and states that he is authorised to exercise those powers for the purposes and on behalf of that person,

subsection (7) of this section shall have effect as if the references to the Coal Authority were references to the specified person.

- (7B) Any authorisation by the Coal Authority of any person for the purposes of the exercise of the powers conferred by this section, and any conditions of such an authorisation, may be revoked or varied by that Authority at any time.”

Claims for compensation

- 30 (1) In subsection (1) of section 40 (claims for compensation)—
- (a) for the words “the Corporation”, in the first place where they occur, there shall be substituted “ any person ”; and
- (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted “ that person ”.
- (2) In subsections (2)(c) and (3) of that section, for the words “the Corporation”, in each place where they occur, there shall be substituted “ any person ”.

Compensation in respect of property held for religious purposes

- 31 (1) In subsection (1) of section 42 (compensation payable in respect of property held for religious purposes), for “the Corporation” there shall be substituted “ any person (“the person liable”) ”.
- (2) In subsection (4) of that section—
- (a) for “the Corporation are” there shall be substituted “ the person liable is ”; and
- (b) for the words “the Corporation”, in the second and third places where they occur, there shall be substituted “ the person liable ”.

Provision in respect of mortgaged land

- 32 In section 43 (compensation provisions applying to mortgaged land), the words “by the Corporation”, wherever they occur, shall be omitted.

Crown land

- 33 In section 44 (Crown land)—
- (a) in subsection (1), for “the Corporation” there shall be substituted “ the Coal Authority ”; and
- (b) in subsection (3), the words “by the Corporation” shall be omitted.

Telecommunication apparatus

- 34 In section 45(2) (application of paragraph 23 of the telecommunications code), for “to the Corporation for the purposes of any permitted activities” there shall be substituted “ for the purposes of any permitted activities to the person with the benefit of that permission ”.

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 8. (See end of Document for details)

Provisions as to regulations, orders etc.

35 After section 49(4) (general power to revoke and vary orders and directions) there shall be inserted the following subsections—

“(4A) A compulsory rights order may, by notice to the person entitled to the rights conferred by the order, be revoked at any time—

- (a) by the Coal Authority, if it is satisfied that that person has consented to the revocation; or
- (b) by the Secretary of State, if he is satisfied that that person has contravened, or is contravening, any of the provisions of the order or any requirement otherwise imposed on that person by or under this Act.

(4B) Where in the case of any compulsory rights order made or confirmed at any time on or after the restructuring date (within the meaning of the Coal Industry Act 1994), it appears to the Coal Authority—

- (a) that the order would not have been made or confirmed, or would not have extended to certain interests or rights, if a person to whom a relevant offer was made had accepted it,
- (b) that that person has, since the making of the order, made a written offer to the person entitled to the rights conferred by it (“the operator”) to enter into an agreement on the terms of the relevant offer,
- (c) that the written offer was made either at a time before the specification of a date in relation to the order as the date of entry or at a time more than twenty-eight days before any date so specified,
- (d) that the person making the offer will enter into an agreement with the operator on those terms if the order is revoked or varied under this subsection, and
- (e) that the circumstances (apart from the expiration or rejection of the relevant offer and the making and confirmation of the order) are not such as to make it unreasonable for the operator to be required to treat the terms of the relevant offer as still available for acceptance,

that Authority may, by notice to the operator and subject to such conditions as it thinks fit, either revoke the order or vary it by limiting it so that it does not extend to the interests and rights of the person who is offering to be bound by an agreement on the terms he previously failed to accept.

(4C) In subsection (4B) above “relevant offer”, in relation to a compulsory rights order, means any offer which—

- (a) was made by the applicant for the order to a person who is one of the persons directly concerned; and
- (b) was an offer as to the terms on which the applicant was willing (instead of requiring rights as against that person to be conferred by a compulsory rights order) to enter into an agreement with that person.”

Interpretation

36 (1) In subsection (1) of section 51 (interpretation)—

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 8. (See end of Document for details)

- (a) in the definition of “opencast planning permission”, for “the Corporation to work coal by opencast operations or to carry out” there shall be substituted “the working of coal by opencast operations or the carrying out of”; and
- (b) after the definition of “statutory undertakers” there shall be inserted the following definition—

““successor”, in relation to an applicant for an order under any provision of this Act, means any person (whether or not the immediate successor of the applicant) who—

- (a) in accordance with the provisions of any licence granted to the applicant under Part II of the Coal Industry Act 1994, succeeds to any entitlement of that applicant under that licence to work any coal by opencast operations; or
- (b) becomes entitled by virtue of the grant of a new licence under that Part of that Act to work by such operations any coal which the applicant was previously entitled so to work as a licensed operator within the meaning of that Act;”.

- (2) After that subsection there shall be inserted the following subsection—

“(1A) References in this Act, in relation to any opencast planning permission, to the person with the benefit of that permission shall be construed as a reference to any person who—

- (a) is able, on account of his having all such interests or rights as (apart from that permission) he requires for the purpose, to carry out any of the permitted activities; or
- (b) would be so able if the rights which he had and was entitled to exercise included any such right as he has applied for, or is entitled to apply for, under this Act or any right which has been conferred on him under this Act but has not yet become exercisable.”

Application to Scotland

- 37 In section 52(3) (construction of references to water authorities in relation to Scotland) after “shall” there shall be inserted “, except in so far as the context otherwise requires, ”.

Procedure for compulsory rights orders in Scotland

- 38 (1) In Part I of Schedule 2 (making, confirmation, validity and date of operation of Scottish orders), in paragraph 1(1)—
 - (a) after “Schedule to the” there shall be inserted, “ Scottish ”;
 - (b) in paragraph (b), for “Corporation” there shall be substituted “ Coal Authority ”; and
 - (c) in paragraph (c), the words “on the Corporation” shall be omitted.
- (2) In paragraph 2 of that Schedule, after “in relation to the” there shall be inserted “ Scottish ”.
- (3) In paragraph 3 of that Schedule—
 - (a) in sub-paragraph (1)—
 - (i) for the words from the beginning to “provisions” there shall be substituted—

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 8. (See end of Document for details)

“(1) Paragraph 3 of that Schedule shall apply with the substitution, for sub-paragraph (b) of that paragraph, of the following paragraphs—”; and

(ii) in the substituted provision (c), for “head (b) of this sub-paragraph” there shall be substituted “ sub-paragraph (b) of this paragraph ”;

and

(b) in sub-paragraph (2), for “Corporation” there shall be substituted “ Coal Authority ”.

(4) In paragraph 8 of that Schedule, for “Corporation” there shall be substituted “ Coal Authority ”.

(5) In paragraph 9 of that Schedule, after “to the” there shall be inserted “ Scottish ”.

(6) Paragraph 12 of that Schedule shall cease to have effect.

Other provisions with respect to the procedure for compulsory rights orders

39 (1) In paragraph 13 of Part II of Schedule 2 (procedure relating to orders), in sub-paragraph (2), for “The Corporation” there shall be substituted “ The person on whose application a compulsory rights order has been made ”.

(2) In sub-paragraph (3) of that paragraph—

(a) for the words “The Corporation”, at the beginning, there shall be substituted “ That person ”;

(b) after “on” there shall be inserted “ the Coal Authority and on ”; and

(c) for “to the Corporation” there shall be substituted “ to the person serving the notice ”.

(3) In sub-paragraph (4) of that paragraph, for “The Corporation” there shall be substituted “ The person on whose application a compulsory rights order has been made ”.

Compensation by way of payment for costs of works

40 (1) In Schedule 3 (terminal compensation by way of payment for works)—

(a) in paragraph 1, after the definition of “compensation” there shall be inserted the following definition—

““final operator” means the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order;”and

(b) for the words “the Corporation”, wherever they occur in that Schedule, there shall be substituted “ the final operator ”.

(2) In paragraph 3 of that Schedule—

(a) in sub-paragraph (a), for “object” there shall be substituted “ objects ”; and

(b) in sub-paragraph (b), for “they object” there shall be substituted “ the final operator objects ”.

(3) In paragraph 5 of that Schedule—

(a) in sub-paragraph (4)(a)(ii), for “have not” and “they have” there shall be substituted, respectively, “ has not ” and “ the final operator has ”; and

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 8. (See end of Document for details)

- (b) in sub-paragraph (5), for “serve” there shall be substituted “ serves ”.
- (4) In paragraph 8 of that Schedule—
 - (a) in sub-paragraph (a), for “have not served” there shall be substituted “ has not served ”; and
 - (b) in sub-paragraph (b), for “have served” there shall be substituted “ has served ”.
- (5) In paragraph 9 of that Schedule—
 - (a) in sub-paragraph (1), for “have served” there shall be substituted “ has served ”; and
 - (b) in sub-paragraph (2), for “are precluded” there shall be substituted “ is precluded ”.
- (6) In paragraph 10(1) of that Schedule—
 - (a) for “have served” there shall be substituted “ has served ”; and
 - (b) in paragraph (b), for “maintain” there shall be substituted “ maintains ”.

Compensation in respect of minerals

41 For paragraph 2 of Schedule 5 (compensation in respect of minerals) there shall be substituted the following paragraph—

- “2 (1) Any entitlement to compensation under this Schedule shall be an entitlement to compensation from—
- (a) in the case of compensation under paragraph 4 or 12 of this Schedule, the persons who, for the whole or any part of the year in question, have been entitled to the rights conferred by the order;
 - (b) in the case of compensation under paragraph 5 of this Schedule, the person on whose application that order is made;
 - (c) in the case of compensation under paragraph 6 of this Schedule, the person by whom the compensation would be payable if it were compensation under section 27 of this Act;
 - (d) in the case of compensation under paragraph 7, 8, 9, 10 or 13 of this Schedule, the person who immediately before the end of the period of occupation is the person entitled to the rights conferred by the order.
- (2) Sub-paragraph (1)(a) of this paragraph shall have effect subject, where different persons have been entitled to the rights conferred by an order for different parts of the year, to any apportionment under section 35(3) of this Act.”

Application of Schedule 6 to Scotland

- 42 (1) In paragraph 1(2) of Schedule 6 (changes in right of occupation), for “seventeen to nineteen” there shall be substituted “ 17 and 18 ”.
- (2) In paragraph 2 of that Schedule (new tenancies), for “seventeen to twenty” there shall be substituted “ 17 and 18 ”.

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 8. (See end of Document for details)

- (3) Paragraphs 8 and 9 of that Schedule (which relate to compensation under section 19 but are applied in relation to compensation under Schedule 5) shall cease to have effect except so far as applied by paragraph 10 of that Schedule.
- (4) In paragraph 26 of that Schedule (apportionment in respect of parts of a year), after sub-paragraph (4) there shall be inserted the following sub-paragraph—
 - “(5) This paragraph shall not apply in relation to any compensation the entitlement to which is apportioned in accordance with section 17(3A) of this Act.”
- (5) In paragraph 31 of that Schedule (application of the Schedule to Scotland), for the words from “of land entered” to the end there shall be substituted “ falling within section 2(2)(a) of the Scottish Act of 1991, to a lease and to section 2 of the Scottish Act of 1991. ”
- (6) Sub-paragraphs (1) to (4) above shall not apply in relation to any compulsory rights order confirmed before the restructuring date.

Tenancies of allotment gardens and other allotments

- 43 (1) In paragraph 3 of Schedule 8 (compensation for termination of allotment tenancy), for “the Corporation” there shall be substituted “ the person on whose application the order was made ”.
- (2) In paragraph 4 of that Schedule (amount of compensation payable by the Corporation and interest), the words “by the Corporation” shall be omitted.
- (3) In paragraph 5 of that Schedule (compensation for forced sales), the words “from the Corporation” in sub-paragraph (1) shall be omitted, and after that sub-paragraph there shall be inserted the following sub-paragraph—
 - “(1A) Compensation under this paragraph shall be payable by the person by whom it would be payable if it were compensation under section 27 of this Act.”
- (4) In paragraph 6(3) of that Schedule (application of section 35(7) and (8)), the words “by the Corporation” shall be omitted.
- (5) In paragraph 7 of that Schedule (disputes)—
 - (a) in sub-paragraphs (a) and (b), the words “from the Corporation” shall be omitted; and
 - (b) in the words after sub-paragraph (b), for “the Corporation” there shall be substituted “ the person from whom it is claimed ”.
- (6) In paragraph 8 of that Schedule (costs of valuation), for “the Corporation” there shall be substituted “ the person from whom the compensation under this Schedule is claimed ”.

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 8.