

SCHEDULES

SCHEDULE 8

AMENDMENTS OF THE OPENCAST COAL ACT 1958

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—

Status: This is the original version (as it was originally enacted).

- (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.”