



Coal industry Act 1994

1994 CHAPTER 21

PART III

RIGHTS AND OBLIGATIONS IN CONNECTION WITH COAL MINING

Withdrawal of support from land

40 Savings for special cases

- (1) Where the Corporation is bound, immediately before the restructuring date, by—
- (a) the provisions of an agreement which—
 - (i) was made between the Corporation or any predecessor of the Corporation and a person who (within the meaning of the Coal Act 1938) was interested in any land, and
 - (ii) has effect so as to require the Corporation to comply with an undertaking which is contained in the agreement and is an undertaking not to work any coal, not to work minerals or not to withdraw support from any land,
 - (b) any provisions containing any restriction, terms or conditions applicable to the working of coal by virtue of any agreement entered into after 1st July 1942 and before the restructuring date, or
 - (c) the provisions of any coal-mining lease (within the meaning of that Act of 1938) prohibiting the withdrawal of support from any land specified in the lease,
- section 38 above shall have effect subject to those provisions, but only so far as they have effect in relation to the Corporation or any other person who is for the time being bound by them.
- (2) Section 38 above shall not affect any restrictions, terms or conditions applicable to the working of coal by virtue of—
- (a) any order made (whether before or after the restructuring date) under section 1 or 7 of the Mines (Working Facilities and Support) Act 1966 (acquisition of rights to work minerals); or

Status: This is the original version (as it was originally enacted).

- (b) section 33 of the Coal Act 1938 (restriction on working of coal vested in statutory undertakers) or any consent required by virtue of that section; and section 38 above shall be without prejudice to the effect in relation to any restrictions, terms or conditions falling within paragraph (a) or (b) above of the provisions of any restructuring scheme.
- (3) Section 38 above shall have effect subject to any such right as was referred to in section 34(1) of the Coal Act 1938 (statutory and corresponding rights of the Crown, local authorities and statutory undertakers) and is a right to which the activities of the Corporation were subject immediately before the restructuring date.
- (4) Nothing in section 38 above shall confer any entitlement to withdraw support in connection with the working of any coal or coal mines comprised in land in the Forest of Dean or any other part of the area of what was the Hundred of Saint Briavels in the county of Gloucester, being land in respect of which the privileges of free miners are exercisable.
- (5) References in this section, in relation to an agreement which has effect with respect to the working of any coal, to a predecessor of the Corporation are references to the Coal Commission or the person in whom the fee simple of the coal (or, in Scotland, the interest of proprietor of the *dominium utile* of the coal) was vested when the agreement was entered into.
- (6) The reference in subsection (5) above to a person in whom the interest of proprietor of the *dominium utile* was vested when the agreement was entered into shall, as regards coal in the undivided ownership of the Crown at that time, be construed as a reference to the Crown.
- (7) Nothing in this Act or in any other enactment shall be taken as preventing any person from entering, at any time on or after the restructuring date, into an agreement by virtue of which he accepts a prohibition or restriction on the exercise of his rights under section 38 above.