



Coal industry Act 1994

1994 CHAPTER 21

PART III

RIGHTS AND OBLIGATIONS IN CONNECTION WITH COAL MINING

Additional rights in relation to underground land

51 Additional rights in relation to underground land

- (1) Subject to the following provisions of this section—
- (a) a licensed operator, or
 - (b) any person authorised as mentioned in section 27(4) above to act on his behalf in the carrying on of any of the operations which the operator is authorised to carry on,
- shall be entitled, at any time on or after the restructuring date, to exercise the right conferred by this section in relation to any underground land in the area in which the operator in question is authorised to carry on coal-mining operations.
- (2) Subject to the following provisions of this section and to section 5(6) above, the Authority and the persons authorised by the Authority to exercise its right under this section shall also be entitled, at any time on or after the restructuring date, to exercise the right conferred by this section in relation to any underground land in relation to which there is not for the time being any person who, as a licensed operator, is authorised to carry on any coal-mining operations to which section 25 above applies.
- (3) The right conferred by this section in relation to any underground land is a right, for any of the purposes mentioned in subsection (4) below, to do any of the following, that is to say—
- (a) to enter upon, remove, execute works in, pass through or occupy that land; or
 - (b) to do any acts requisite or convenient for the carrying on of any coal-mining operations.
- (4) The purposes mentioned in subsection (3) above are—

Status: This is the original version (as it was originally enacted).

- (a) in relation to a licensed operator or a person authorised to act on his behalf, the carrying on of any coal-mining operations; and
 - (b) in relation to the Authority, any purposes connected with the carrying out of its functions under this Act.
- (5) Nothing in this section shall authorise—
- (a) any interference with the carrying on of any underground operations carried on otherwise than for purposes connected with any coal-mining operations;
 - (b) the withdrawal of support from any land or any interference with the surface of any land;
 - (c) the doing of any act which, apart from this section, would be actionable in England and Wales by virtue of—
 - (i) any liberty, privilege, easement, advantage or other right annexed to any other land,
 - (ii) any restrictive covenant, or
 - (iii) any statutory prohibition or restriction,which adversely affects the land in question;
 - (d) the doing of any act which, apart from this section, would be actionable in Scotland by virtue of—
 - (i) any real burden (including a real burden *ad factum praestandum*), or
 - (ii) any statutory prohibition or restriction,which adversely affects the land in question; or
 - (e) the doing of any act which, apart from this section, would be actionable as a trespass or nuisance and, if done, would be likely to cause actual damage of more than a purely nominal amount.
- (6) For the purposes of subsection (5) above the reference to a liberty, privilege, easement, advantage or other right being annexed to any land is a reference to its appertaining to that land or any part of it, to its being demised, occupied or enjoyed with that land or any part of it or to its being reputed or known as part or parcel of the land or as appurtenant to the land or to any part of it.
- (7) Nothing in this section shall confer any such right as is mentioned in section 9(1)(b) above or be taken to authorise a contravention of section 25(1) above or of any of the conditions of a licence under Part II of this Act.
- (8) The rights conferred on the Corporation by virtue of section 15 of the Coal Act 1938, section 8(1) of the 1946 Act and section 25 of the Control of Pollution Act 1974 (which made provision similar to that made by this section and extended such provision to waste disposal), or by virtue of any of those provisions, shall not be exercisable at any time on or after the restructuring date.