



# Coal Industry Act 1994

## 1994 CHAPTER 21

### PART I

#### RE-ORGANISATION OF COAL INDUSTRY

##### *Restructuring of the Corporation's undertaking*

#### **11 Restructuring of the Corporation's functions.**

- (1) On and after the restructuring date the Corporation shall continue to exist until dissolved under section 23 below but with its functions confined to—
  - (a) carrying on its undertaking for the time being, and
  - (b) managing and otherwise dealing with the interests and rights in or in relation to property which are for the time being vested in it,in such manner as, having regard to what is economically viable, it considers is best calculated for the purposes specified in subsection (2) below.
- (2) The purposes mentioned in subsection (1) are those of securing—
  - (a) that all of the Corporation's undertaking and property is in due course transferred out of the ownership and control of the Corporation;
  - (b) that any transfers for the removal of any of that undertaking or property from the ownership or control of the public sector are on the best available terms; and
  - (c) that the Corporation's undertaking and property are put to the best available use for so long as they remain in its ownership or under its control.
- (3) Where the Secretary of State notifies his opinion to the Corporation as to—
  - (a) what is economically viable in any case,
  - (b) the activities most likely to secure that any transfer for the removal of any of the Corporation's undertaking, or any property, from the ownership or control of the public sector will be on the best available terms, or
  - (c) the best available use to which any of the Corporation's undertaking or property may be put while owned by or under the control of the Corporation,

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the Corporation shall be required for the purposes of this section to accept that opinion.

(4) Subject to subsection (6) below, on and after the restructuring date the following powers, that is to say—

- (a) the powers conferred on the Corporation by subsection (2) of section 1 of the 1946 Act (incidental activities) and described in that subsection as functions,
- (b) those conferred on the Corporation by subsection (3) of that section (power to enter into certain transactions), and
- (c) a power, so far as not comprised in the powers conferred by subsection (2) or (3) of that section, to carry on any activities consisting in or connected with the working or getting of coal,

shall be exercisable by the Corporation for the purposes of, and in connection with, the carrying out of the Corporation's functions under subsection (1) above as they were exercisable, before the restructuring date, for or in connection with the discharge of its duties under subsection (1) of that section.

(5) The requirement for the matters secured under subsection (4) of section 1 of the 1946 Act (which specifies policy objectives for the Corporation) to be secured consistently with the proper discharge of the Corporation's duties under subsection (1) of that section shall have effect on and after the restructuring date as a requirement for those matters to be secured consistently with the carrying out of the Corporation's functions under subsection (1) above.

(6) On and after the restructuring date the Corporation—

- (a) shall not be entitled to carry on any coal-mining operations in respect of which a licence under Part II of this Act is required except under and in accordance with such a licence;
- (b) shall no longer have the powers conferred on it by the <sup>M1</sup>National Coal Board (Additional Powers) Act 1966 and section 9 of the <sup>M2</sup>Coal Industry Act 1977 (powers with respect to petroleum); and
- (c) shall have no power, by virtue of the preceding provisions of this section, to carry on any business which it would not have had power to carry on apart from this Act.

(7) It shall be the duty of the Corporation to comply with such general or specific directions with respect to the exercise of any of its powers, or otherwise with respect to the carrying on of any of its activities, as may be given to it at any time by the Secretary of State.

(8) The consent of the Treasury shall be required for the giving of any notification for the purposes of subsection (3) above; and the power of the Secretary of State to give such a notification and his power to give directions under subsection (7) above shall each be exercisable, except in an emergency, only after consultation with the Corporation.

(9) Subsection (1) above shall be without prejudice to any powers conferred on the Corporation by the <sup>M3</sup>British Coal and British Rail (Transfer Proposals) Act 1993.

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**Marginal Citations**

- M1** 1966 c. 47.
- M2** 1977 c. 39.
- M3** 1993 c. 2.

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## **12 Restructuring schemes in relation to property etc.**

- (1) The Secretary of State may, at any time before the restructuring date, make a scheme providing for the creation, as from that date, in favour of—
  - (a) the Corporation, or
  - (b) any person to whom any part of the Corporation's undertaking is to be transferred on that date in accordance with a scheme under this section,  
of such interests and rights in or in relation to any of the property transferred to the Authority by section 7(3) above as he thinks appropriate for the purposes of the Corporation's functions on and after that date or, as the case may be, for the purposes of the carrying on by that person of the part of the Corporation's undertaking which is to be transferred to him.
- (2) The Secretary of State may from time to time make a scheme for the transfer of property, rights and liabilities from the Corporation or any of its wholly-owned subsidiaries to the Authority or to any one or more other persons who—
  - (a) have entered into an agreement under section 13 below to accept the transfers;  
or
  - (b) otherwise appear to him to be persons in whom it is appropriate to vest the property, rights and liabilities in question;and the persons to whom a transfer may be made by virtue of paragraph (b) above shall include the Secretary of State himself.
- (3) The consent of the Treasury shall be required for the making of any scheme under this section ("a restructuring scheme").
- (4) Subject to subsection (5) below, a restructuring scheme shall not, by virtue of subsection (2)(b) above, contain any provision in accordance with which any person other than—
  - (a) the Secretary of State,
  - (b) the Authority,
  - (c) the Corporation or any of its wholly-owned subsidiaries, or
  - (d) a company wholly owned by the Crown,becomes entitled or subject to any property, rights or liabilities unless it appears to the Secretary of State that that person has consented to the provisions of the scheme so far as they relate to him.
- (5) Subsection (4) above shall not require the consent of any person to so much of any restructuring scheme as—
  - (a) relates to property, rights or liabilities to which that person is already entitled or subject; and
  - (b) appears to the Secretary of State to be made for purposes that are no more than supplemental or incidental to the other provisions of the scheme.
- (6) It shall be the duty of the Secretary of State, in exercising his powers under this section to make a restructuring scheme in accordance with which any person other than—
  - (a) a person mentioned in subsection (4)(a) to (d) above, or
  - (b) a body of whom all the members are appointed by a Minister of the Crown,is to become subject to any liabilities, to have regard to the fact that it would not be appropriate for the scheme to provide for the transfer of any of those liabilities to any person except where it is reasonable to believe that that person is a person who will be able to finance their discharge.

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- (7) The Secretary of State—
- (a) shall retain and preserve a copy of every restructuring scheme made under this section; and
  - (b) at the request of any person who, in accordance with such a scheme, has become entitled to any interest or right in or in relation to any property, shall furnish that person with a list of the names and addresses of the other persons who have become entitled to interests or rights in or in relation to property in accordance with that or with any other such scheme.
- (8) Schedule 2 to this Act shall have effect with respect to restructuring schemes.

### **13 Agreements with respect to restructuring schemes.**

- (1) The Secretary of State may enter into any such agreement with another person as he thinks fit for the purpose of accepting or imposing contractual obligations with respect to, or to anything connected with, any or all of the following matters, that is to say—
- (a) the manner and circumstances in which his powers by virtue of section 12 above are to be exercised; and
  - (b) the property, rights or liabilities to which any proposed restructuring scheme relates.
- (2) An agreement under this section may, in particular, provide for the making of payments to the Corporation or the Secretary of State (by way of consideration or otherwise) in respect of anything created or transferred in accordance with a restructuring scheme.
- (3) An agreement under this section may also contain provision in pursuance of which the Secretary of State binds himself as to the manner and circumstances in which he will exercise his power to give directions under section 11(7) above.
- (4) The consent of the Treasury shall be required for the making of an agreement under this section.
- (5) Any sums received by the Secretary of State in pursuance of an agreement under this section shall be paid into the Consolidated Fund.

### **14 Duty to assist in preparation of restructuring schemes.**

- (1) It shall be the duty of the Corporation and of the Authority to furnish the Secretary of State with all such information and other assistance as he may require for the purposes of, or in connection with—
- (a) the making of any restructuring scheme or of any agreement under section 13 above; or
  - (b) the exercise of any of his powers in relation to any such scheme.
- (2) The assistance that may be required under this section in relation to the making of any scheme or agreement includes—
- (a) assistance required by the Secretary of State in connection with the exercise of any power conferred on him by section 26(6) below; and
  - (b) the taking of any step which the Corporation has power to take for the purpose of facilitating the implementation of any proposals of the Secretary of State which involve the inclusion of anything in the scheme or agreement or

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otherwise relate, in connection with the making of the scheme or agreement, to the Corporation's undertaking.

- (3) The obligations of the Corporation under this section shall include a duty to secure, so far as practicable, that its subsidiaries furnish all such information and assistance as the Secretary of State may require for the purposes of, or in connection with, the making of any such scheme or agreement, or the exercise of any such power, as is mentioned in subsection (1) above.
- (4) A duty under this section to furnish information or assistance, or to secure that it is furnished, shall be performed within such period after the requirement giving rise to the duty as the Secretary of State may allow.

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