

**THE COAL AUTHORITY**  
**GUIDANCE NOTES FOR APPLICANTS**  
**FOR UNDERGROUND COAL GASIFICATION LICENCES**

**1. Introduction**

- 1.1 These guidance notes relate to licence applications for underground coal gasification operations as described at 1.2.2 below. Guidance notes for applicants for licences for coal mining operations described at 1.2.1 below, namely surface and underground coal mining, are published separately.
- 1.2 Under the Coal Industry Act 1994, certain specified coal mining operations require a statutory licence from the Coal Authority (“the Authority”). These operations are :-
- 1.2.1 the winning, working or getting of coal by surface or underground methods; and
- 1.2.2 the treatment of coal in the strata for the purpose of winning any product of coal and the winning, working or getting of any product of coal resulting from such treatment;
- in any part of Great Britain, under the territorial sea adjacent to Great Britain, or on the United Kingdom Continental Shelf.
- 1.3 Those wishing to carry on such coal mining operations require, in addition to such a statutory operating licence conferring the authorisation to mine :-
- 1.3.1 the property interest in the coal, which will, in nearly all circumstances, be owned by the Authority and if so, will always be granted in conjunction with the licence;
- 1.3.2 all necessary access rights from the surface landowner (which could be the Authority); and
- 1.3.3 any other necessary permissions or consents, e.g. planning permission.

**2. Forms of Application**

- 2.1 Applicants should note the following in submitting applications :-
- 2.1.1 Applications must be in English.
- 2.1.2 Applicants are required to pay a non-refundable fee when submitting an application, in accordance with the Scale of Fees at Annex C to these Notes.
- 2.1.3 The Authority reserves the right to require additional information and explanation from the Applicant.
- 2.2 If it emerges during the processing of an application that any information supplied by the Applicant is false or misleading, or that any material information has been withheld, the Authority may reject the application. **It should be noted that to knowingly supply false information is a criminal offence.**
- 2.3 Applicants should note that the acknowledgement of the receipt of an application by the Authority does not constitute a warranty or undertaking on the part of the Authority that a licence or rights will be granted, nor does the grant of a licence or rights imply any representation by the Authority that there is any coal within the licensed area.

- 2.4 Applications should be submitted in the form shown in the attached :-
- 2.4.1 Annex A Application for an Underground Coal Gasification Operating Licence and where necessary, an associated Lease;
- 2.4.2 Annex B Application for an Underground Coal Gasification Conditional Licence and where necessary, an associated Option for Lease.

### **3. Timing and content of applications and application fees**

- 3.1 An application for a statutory licence and associated lease or option for lease can be submitted to the Authority at any time. However, a decision whether or not to grant cannot be made until the full particulars required by these guidance notes have been received by the Authority.
- 3.2 The information to be provided and the required application fee are set out in the annexes to these notes.

### **4. Publicity for Applications**

- 4.1 The Coal Industry Act 1994 requires the Authority to establish and maintain a register containing particulars of applications for statutory operating licences and to establish and maintain arrangements for public access to that register. Commercially confidential information submitted as part of the application will not be included in the register.
- 4.2 In recognition of the Authority's duty towards the coal mining industry, all applications will be publicised by the Authority on its website ([www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)) and in an industry wide newsletter, in order that others are given the opportunity to express any interests in the area concerned.
- 4.3 In most circumstances a period of 30 days from the publication of an application will be allowed for expressions of interest. Where no expressions of interest are received, the Authority will then consider the application as soon as is reasonably practicable.
- 4.4 Where expressions of interest have been submitted, those showing interest will be allowed a further 30 days for the submission of alternative applications (ie a period of 60 days in total from the original application). The original Applicant will be informed of these expressions of interest and may modify his application during this period.

### **5. Processing of Applications**

- 5.1 The Authority will process applications without unreasonable delay having regard to its statutory duties. It will greatly assist the Authority to do so if applications are full and complete, and if Applicants respond promptly to any requests for explanation or further information.

### **6. Determining Applications**

- 6.1 In general, the Authority has delegated to its Director of Operations the power to determine applications for licences and associated leases or options for lease in relation to coal and other minerals owned by the Authority.
- 6.2 An exception to the general case described in paragraph 6.1 occurs where the consideration (or estimated total consideration, where the consideration is not to be paid in one sum) for the coal exceeds £5,000,000. In such cases, the applications for both the licence and the property rights in relation to the coal / other minerals will be referred to the Members of the Authority for determination or other action as appropriate. The decision of the Members of the Authority shall be final. There will be no review by the Authority of that decision.
- 6.3 The Authority will determine applications for licences and associated leases in accordance with its statutory duties.
- 6.4 When carrying out its licensing function, the Authority's duties are broadly :-

- 6.4.1 to act in the manner it considers best calculated to secure, so far as practicable, that :-
    - 6.4.1.1. an economically viable coal mining industry is maintained and developed by those authorised to carry on coal mining operations;
    - 6.4.1.2. those authorised to carry on coal mining operations are able to finance both the proper carrying on of those operations and the discharge of liabilities arising from those operations; and
    - 6.4.1.3. those owed obligations in respect of subsidence damage do not sustain loss as a consequence of a failure by those authorised to carry on coal mining operations to make reasonable financial provision for meeting their liabilities;
  - 6.4.2 to have regard to the desirability of securing that :-
    - 6.4.2.1. those authorised to carry on coal mining operations have at their disposal the appropriate experience and expertise to ensure that those operations are properly carried out; and
    - 6.4.2.2. competition is promoted between the different persons carrying on, or seeking to carry on, coal mining operations;
  - 6.4.3 to have regard to the subsidence damage that may be caused by coal mining operations;
  - 6.4.4 to conduct itself in accordance with any agreement with the Health and Safety Executive for securing co-operation and the exchange of information.
- 6.5 The Authority may also take account of the extent to which the Applicant has obtained the other necessary surface access rights, permission and consents.

## **7. Conditional Licences**

- 7.1 The Authority may, if so requested, be prepared to grant a “conditional licence” and an option for lease of coal and other minerals in its ownership, or may itself, decide to grant such a licence and option. A conditional licence defers the coming into effect of the authorisation to mine until specified requirements have been satisfied (e.g. that planning consent has been obtained) and will lapse if these requirements are not fulfilled within a specified period.
- 7.2 This approach might be appropriate if the Applicant is reluctant to commit himself irrevocably to substantial expenditure on developing a project without some assurance that he will be granted a statutory operating licence and associated lease should he subsequently wish to mine coal. Similarly an Applicant who has not secured the necessary access rights from other land owners, planning permission or other necessary permissions or consents might be reluctant to commit himself irrevocably to substantial expenditure without a similar assurance. The Authority might itself decide to grant a conditional licence and an option for lease if the Applicant has not secured, for example, planning permission or access rights to land not in its ownership.
- 7.3 Applications for such conditional licences and associated options will generally be publicised in the same way as other applications and attract the same application fee.

## **8. Model licences etc.**

- 8.1 Under the Coal Industry Act 1994 the Authority is required to publish model licence provisions, and to have regard to those provisions when determining the provisions of licences that it grants.
- 8.2 Copies of such model licences and leases are available on the Coal Authority web site ([www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)) or may be obtained directly from the Authority.

## **9. Interaction Agreement**

- 9.1 The term “interaction” is used to describe the physical effects which activities connected with any coal or coal mine may have on other such activities (including their subsidence effects), or on other interests in coal. Those effects include water or gas migration and the results of a withdrawal of lateral or vertical support. Interaction can occur in situations where the activities are separated by considerable distances. In order to deal with this, a framework has been created which will bind signatories to an agreement (the “Interaction Agreement”) to a process of notification, discussion and giving and obtaining consent and an obligation to act reasonably.
- 9.2 An Applicant who has not already done so will be required to become a party to the Interaction Agreement before being granted a licence.
- 9.3 A copy of the Interaction Agreement and explanatory notes are available on the Coal Authority web site ([www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)) or it may be obtained directly from the Authority.
- 9.4 The Agreement is not intended to address safety issues which are dealt with in the Health and Safety Commission’s regulatory regime.

## **10. Review of Licensing Decision**

- 10.1 Where an application is determined and the Director of Operations decides not to grant a licence and lease (or option), the reasons for that decision will be provided in writing to the Applicant. In such cases, the Applicant may seek a review of the Director’s decision.
- 10.2 If the Applicant wishes the Authority to review the decision, he should, within 28 days of his receipt of the written reasons for the decision, write to the Chief Executive of the Authority setting out his reasons for seeking such a review. The Chief Executive will acknowledge receipt of that letter.
- 10.3 If the Chief Executive (after taking such advice as he considers necessary) forms the view that the Applicant’s reasons for requesting a review constitute a material variation from the original application, and/or includes relevant information not available to the Director of Operations when he made his decision, he will refer the matter back to the Director of Operations to re-consider his decision in the light of the material variation / new information.
- 10.4 If the Chief Executive (after taking such advice as he considers necessary) forms the view that the Applicant’s reasons for requesting a review do not constitute a material variation from the original application, he will place the Applicant’s letter before a Review Panel (“the Panel”) constituted of Members of the Authority.
- 10.5 The Panel will meet at the earliest opportunity to undertake the review. Where appropriate, the Panel will seek expert advice.
- 10.6 The procedure of the Panel will be determined by the Panel consistent with the Coal Industry Act 1994 and the requirement of fairness. The Applicant will be given the opportunity to explain his application and his reasons for seeking a review of the decision. The Director of Operations will also be given the opportunity to explain his decision.
- 10.7 It is emphasised that the Panel will review the decision which was taken. The review procedure cannot be used to :-
- 10.7.1 introduce material variations from the application in response to which the original decision was given; or
- 10.7.2 to produce new relevant information which was not made available to the Director of Operations when he made that decision.
- 10.8 If the Applicant attempts to introduce any material variation, or produces new relevant information, the matter will be referred back to the Director of Operations for further consideration. If the variation forms a significant departure from the original application, the Director of Operations may require a new application to be made.

10.9 The Applicant will be informed of the outcome of the Panel's review as soon as practicable, and normally within 28 days of the review taking place.

## **11. Competing Applications**

11.1 Following the Authority's publicity process outlined at 4 above there may be the instance of one or more competing applications for a particular licence, all capable of being granted.

11.2 In such circumstances the Authority will process all the applications in accordance with its statutory duties and a decision will be taken as to which Applicant to grant the licence to by either the Director of Operations or the Members of the Authority as outlined at 6.1 and 6.2 above.

11.3 When a decision has been reached the successful Applicant will be informed in writing that the Authority is minded to grant a licence and the unsuccessful Applicant(s) will be informed in writing of the decision together with the reasons for that decision.

11.4 The unsuccessful Applicant(s) will be allowed a period of 10 days from notification in which to request further details on the decision from the Authority. If a request for further details is made 1 to 2 days after notification then the Authority must respond within the 10 days. If the request is made 3 or more days after notification then the 10 day period is extended to 15 days during which time the Authority must respond.

11.5 At the end of the 10/15 day period the Authority may grant the licence.