

SCHEDULES

SCHEDULE 8

AMENDMENTS OF THE OPENCAST COAL ACT 1958

Supplementary provisions about suspension of rights of way

- 13 (1) In subsection (1) of section 15A (supplementary provisions in relation to the suspension of rights of way)—
- (a) for the words from the beginning to the words “the Corporation”, in the first place where they occur, there shall be substituted—
 - “(1) Before any person submits an application to the Coal Authority for an order under section 15 of this Act, that person”;
 - (b) in paragraph (a), for “the Corporation are” there shall be substituted “that person is”;
 - (c) after paragraph (a) there shall be inserted the following paragraph—
 - “(aa) whether the applicant is proposing to make available any alternative way and, if he is, what the alternative is; and”;
 - (d) paragraph (c) (notice to specify objection procedure) and the word “and” immediately preceding it shall be omitted.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) As soon as reasonably practicable after making an order under section 15 of this Act the Coal Authority shall submit the order to the Secretary of State for confirmation and publish a notice in the prescribed form identifying the right of way in question and stating—
 - (a) that the Coal Authority has made an order that will suspend the right of way in connection with the working of coal by opencast operations and has submitted the order for confirmation to the Secretary of State;
 - (b) whether the applicant for the order is to make any alternative way available and, if he is, what the alternative is;
 - (c) that opencast planning permission has been applied for or, as the case may be, granted; and
 - (d) that objections to the confirmation of the order may be made in writing to the Secretary of State within such time, not being less than 28 days from the publication of the notice, as may be specified.”
- (3) In subsection (2) of that section, after “subsection (1)” there shall be inserted “or (1A)”.
- (4) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) The Secretary of State shall not confirm an order under section 15 of this Act unless he thinks fit and—

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- (a) he is satisfied that the notice required by subsection (1A) above has been published in relation to that order and that the requirements of subsection (5) below have been satisfied in relation to that notice;
 - (b) the period within which objections may be made in accordance with that notice has expired; and
 - (c) the opencast planning permission has been granted.”
- (5) In subsection (4) of that section—
- (a) after “subsection (1)” there shall be inserted “or (1A)”; and
 - (b) after “the application” there shall be inserted “or, as the case may be, the order”.
- (6) In subsection (5) of that section—
- (a) for the words from the beginning to “the Secretary of State” there shall be substituted—
 - “(5) Where any person is required under subsection (1) or (1A) above to publish any notice, he shall also—”;
 - (b) in paragraph (a), for the words from “of the right” onwards there shall be substituted (after sub-paragraph (ii))—
 - “of the submission of the application or, as the case may be, of the making of the order;”
 - (c) in paragraph (b), for “their notice under subsection (1) above” there shall be substituted “the notice under subsection (1) or (1A) above”; and
 - (d) in paragraph (c), for the words from “their” onwards there shall be substituted “the matters contained in the notice under subsection (1) or (1A) above.”
- (7) Subsection (6) of that section shall cease to have effect.
- (8) In subsection (7) of that section—
- (a) for “make” there shall be substituted “confirm”; and
 - (b) after “authority” there shall be inserted “other than a parish or community council or parish meeting as is mentioned in subsection (5)(a) above”.
- (9) In subsection (8) of that section, for “make” there shall be substituted “confirm”.
- (10) In subsection (9) of that section—
- (a) the word “Corporation's” shall be omitted;
 - (b) for “the Secretary of State” there shall be substituted “the Coal Authority”; and
 - (c) at the end there shall be inserted “; and this subsection shall be without prejudice to the power of the Secretary of State, by virtue of subsection (3) of that section, to make further modifications when confirming the order.”
- (11) In subsection (10) of that section—
- (a) for the words from the beginning to “publish” there shall be substituted—
 - “(10) A confirmed order under section 15A of this Act shall not have effect at any time before the person on whose application the confirmed order was made has published”;
 - (b) for “has been made” there shall be substituted “has been confirmed”;

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- (c) for “comes” there shall be substituted “is to come”; and
 - (d) for “shall serve a like notice and a copy of the order” there shall be substituted “has served a like notice and a copy of the order and of such a map
- (12) In subsection (11) of that section, for paragraphs (a) and (b) there shall be substituted “in the manner specified in subsection (2) in relation to notices for the purposes of subsection (1) above; and an order that fails, by virtue of subsection (10) above, to come into operation on the date specified in the order shall come into operation on the date of the last publication required by virtue of this subsection.”