



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

1 Authorisation of opencast working of coal.

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Textual Amendments

F1 S. 1 repealed by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(1)(4), [Sch. 12 Pt. II](#)

2 Planning permission for authorised operations.

.....^{F2}

Textual Amendments

F2 S. 2 repealed by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(1)(4), [Sch. 12 Pt. II](#)

[^{F3}3 Preservation of amenity.

In formulating any proposals as to the working of coal by opencast operations or the carrying out of operations incidental to such working or the restoration of land affected by such working or by such incidental operations, the British Coal Corporation (in this Act referred to as “the Corporation”) or any person who holds or is applying for a licence under section 36(2) of the Coal Industry Nationalisation Act 1946—

- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

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- (b) shall so far as possible ensure that the proposals include measures to mitigate any adverse effect which the proposed activities may have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.]

Textual Amendments

F3 S. 3 substituted by [Coal Industry Act 1990 \(c. 3, SIF 86\), s. 5](#)

4 Compulsory rights orders.

[^{F4}(1) For the purpose of facilitating the working of coal by opencast operations, the [^{F5}Corporation] may, by means of an order (in this Act referred to as a “compulsory rights order”) made by the [^{F5}Corporation] and confirmed by the Secretary of State, compulsorily acquire, in accordance with the following provisions of this Part of this Act, temporary rights of occupation and use of the whole or part of [^{F6}any land on which they desire to work coal by such operations or to carry out operations incidental to such working.]

(2) Subject to the provisions of Part III of this Act as to the variation of orders, the period for which a compulsory rights order has effect shall be a period—

- (a) beginning with the date on which the order becomes operative (in this Act referred to as “the operative date”), and
 (b) of such duration, not exceeding twenty years, as may be specified in the order.]

[^{F7}(4A) Parts II, III and IV of the Acquisition of Land Act 1981 shall apply to compulsory rights orders, subject to section 29 of that Act]

[^{F8}(5) The provisions of Parts I, III and IV of the First Schedule to the Acquisition of Land Act (which relate to the procedure for authorising compulsory purchases by local authorities) shall apply to compulsory rights orders, subject to the adaptations, modifications and exceptions set out in Part I of the Second Schedule to this Act.]

[^{F9}(6) A compulsory rights order may only be made if opencast planning permission has been applied for or granted in respect of the land comprised in the order or is deemed to have been granted in respect of it.

(6A) Where a compulsory rights order is made before opencast planning permission has been granted in respect of the land comprised in the order, the Secretary of State shall not confirm it unless such permission in respect of that land has first been granted.

(6B) Where a compulsory rights order is made in a case where opencast planning permission has been granted or is deemed to have been granted, the order, as from the time when it is made, shall include a reference to the permission.

(6C) If opencast planning permission is granted in respect of land comprised in a compulsory rights order and the Secretary of State subsequently confirms the order, the order as confirmed shall include a reference to the permission.

(6D) No compulsory rights order, as confirmed, shall extend to any land which is not comprised in the permission or deemed permission referred to in the order.]

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- (7) The Lands Clauses Acts [^{F10}and the Compulsory Purchase Act 1965] shall not apply to the compulsory acquisition of rights by virtue of a compulsory rights order, or to the taking or retention of possession of land in the exercise of such rights.
- (8) In the application of this section to Scotland, for the reference to the Acquisition of Land Act there shall be substituted a reference to the ^{M1}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (in this Act referred to as “the Scottish Acquisition of Land Act”).

Textual Amendments

- F4** S. 4(1)(2) substituted for s. 4(1)-(4) by Coal Industry Act 1975 (c. 56), s. 4(1)
- F5** Word in s. 4(1) substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)
- F6** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), Sch. 8 para. 2(1)
- F7** S. 4(4A) inserted by Acquisition of Land Act 1981 (c. 67 SIF 28:1), Sch. 4 para. 11(2)
- F8** S. 4(5) repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(3), Sch. 6 Pt. I
- F9** S. 4(6) substituted by s.4(6)(6A)–(6D) by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), Sch. 8 para. 2(2)
- F10** Words inserted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(1), Sch. 4 para. 11(3)

Modifications etc. (not altering text)

- C1** Reference to Lands Clauses Acts to be construed as reference to corresponding provisions in Pt. I of Compulsory Purchase Act 1965 (c. 56): *ibid.*, s. 39(2)

Marginal Citations

- M1** 1947 c. 42.

5 Effect of opencast site orders.

- (1) Subject to the following provisions of this Part of this Act, the effect of [^{F11}a compulsory rights order] shall be in accordance with the provisions of this section.
- (2) The [^{F12}Corporation] shall publish, serve and affix notices specifying the date on which the rights conferred by the order are to become exercisable (in this Act referred to as “the date of entry”) being a date—
- (a) not less than fifty-six days after the first publication (in accordance with the provisions mentioned in the next following subsection) of a notice specifying that date, and
- (b) not more than six months after the operative date.
- (3) The provisions of Part II of the Second Schedule to this Act shall have effect as to the publication, service and affixing of notices under the last preceding subsection.
- (4) As from the date of entry and during the period for which, on and after that date, the order has effect (in this Act referred to as “the period of occupation”), the order shall confer upon the [^{F12}Corporation], and upon persons authorised by the [^{F12}Corporation], the like rights to occupy the land comprised in the order, and to exclude other persons therefrom, as if the [^{F12}Corporation] had acquired a freehold interest in the entirety of that land with vacant possession and free from incumbrances of any description.
- (5) In addition to the rights mentioned in the last preceding subsection [^{F11}a compulsory rights order] shall confer upon the [^{F12}Corporation], and upon persons authorised by

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the [^{F12}Corporation], the right during the period of occupation, as against all persons directly concerned, to carry out, on or in relation to any of the land comprised in the order, all such operations as may appear to the [^{F12}Corporation], in relation to the [^{F13}opencast planning permission]referred to in the order, to be requisite for, or incidental to, the [^{F14}permitted activities].

- (6) Subject to the following provisions of this Act, in this Act “persons directly concerned”, in relation to [^{F11}a compulsory rights order], means persons who for the time being have any interest in any of the land comprised in the order, or have (apart from the order) a right to occupy any of that land, or are entitled to any right restrictive of the use of any of that land.

Textual Amendments

- F11** Words substituted by [Coal Industry Act 1975 \(c. 56\)](#), **Sch. 3 para. 2**
F12 Word in [s. 5\(1\)\(2\)\(4\)\(5\)](#) substituted by [1987 c. 3, s. 1\(2\)](#), **Sch. 1 para. 7(c)**
F13 Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), [s. 39\(3\)](#), **Sch. 8 para. 3(a)**
F14 Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), [s. 39\(3\)](#), **Sch. 8 para. 3(b)**

6 ^{F15}

Textual Amendments

- F15** [S. 6](#) repealed by [Coal Industry Act 1975 \(c. 56\)](#), [s. 5\(3\)](#), **Sch. 5**

7 **General limitations on effect of compulsory rights orders.**

- (1) The rights conferred by a compulsory rights order in accordance with subsection (5) of section five of this Act . . . ^{F16} shall not affect any of the rights mentioned in subsection (2) or subsection (3) of this section.
- (2) Subject to the next following subsection, the said rights are:—
- (a) any right of support for any land not comprised in the order, or for any building or structure on any such land, or any right of action of any person in so far as it arises from the withdrawal of support to which he is entitled for any such land, building or structure;
 - (b) any rights of any statutory water undertakers under any public general Act [^{F17}relating to the supply of water], or under any byelaw made by virtue of such an Act, or under any local enactment, in so far as (apart from this Act) the Act, byelaw or enactment restricts, or enables the undertakers to restrict, the working of coal or other minerals, or the doing of any other act, on land comprised in the order;
 - (c) any rights of any statutory undertakers, [^{F18}or of the body carrying on a sewerage undertaking or sewage disposal undertaking, or of any [^{F19}water authority] or other drainage authority][^{F18}or of any internal drainage board], in respect of any apparatus on, under or over land comprised in the order, being apparatus in respect of which, at any time since the granting of the authorisation referred to in the order, the [^{F20}Corporation] have been entitled to serve a notice under the provisions of [^{F21}the Act of 1971], applied by section thirteen of this Act.

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- (3) . . . ^{F16} the said rights also include the following:—
- (a) the rights conferred by any agreement made by the [^{F22}Corporation] and for the time being in force whereby (apart from this Act) the [^{F22}Corporation] are required to leave any coal unworked;
 - (b) any rights of the body carrying on a railway, canal, inland navigation, harbour or dock undertaking (not being rights falling within the last preceding subsection) under any enactment (whether contained in a public general Act or in any other Act) in so far as (apart from this Act) the enactment would operate so as—
 - (i) to restrict, or enable that body to restrict, the working of coal or other minerals on land comprised in the order which is adjacent to a railway, waterway, harbour, dock or other works situated on land not comprised in the order, being works vested in that body or works which they have any right or duty to maintain, or
 - (ii) to require, or enable that body to require, coal or other minerals on land comprised in the order to be left unworked for the protection or support of such a railway, waterway, harbour, dock or other works.
- (4) Without prejudice to the preceding provisions of this section, the rights conferred by a compulsory rights order as mentioned in subsection (1) of this section—
- (a) shall not affect any right of action of a person who is not a person directly concerned, and
 - (b) in the case of a person directly concerned, shall not affect any right of action of his in so far as it arises otherwise than by virtue of his being entitled to an interest in or right over land, or in so far as it arises by virtue of his being entitled to an interest in, or right over, land not comprised in the order.
- (5) Nothing in the preceding provisions of this section shall affect the operation of subsection (4) of section five of this Act, . . . ^{F16}
- (6) Without prejudice to the preceding provisions of this section, nothing in section five . . . ^{F16} shall be construed as authorising any interference with the exercise of a public right of way.
- (7) Notwithstanding anything in subsection (6) of section five of this Act, . . . ^{F16} a person shall not be taken to be a person directly concerned in relation to a compulsory rights order by reason only that he is entitled to any such right as is mentioned in subsection (2) or subsection (3) of this section.
- [^{F23}(8) In this section “statutory water undertakers” and “local enactment” have the same meanings as in [^{F24}the ^{M2}Water Act 1973 and] the ^{M3}Water Act 1945.]
- [^{F23}(8) In this section “statutory water undertakers” means the National Rivers Authority, a water undertaker or a sewerage undertaker and “local enactment” means any local statutory provision within the meaning of the Water Act 1989.]
- (9) In the application of this section to Scotland, for references to statutory water undertakers, to the Water Act 1945, and to [^{F21}the Act of 1971], there shall be substituted respectively references to a [^{F25}water authority], to the ^{M4}Water (Scotland) Act 1946, and to [^{F26}the Act of 1972].

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Textual Amendments

- F16** Words repealed by [Coal Industry Act 1975 \(c. 56\)](#), s. 5(3), [Sch. 5](#)
- F17** Words repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(3), [Sch. 27 Part I](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#))
- F18** Words substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 26\(1\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- F19** Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), [s. 9](#)
- F20** Word in [s. 7\(2\)\(c\)](#) substituted by [1987 c. 3, s. 1\(2\)](#), [Sch. 1 para. 7\(c\)](#)
- F21** Words substituted by virtue of [Town and Country Planning Act 1971 \(c. 78\)](#), [Sch. 24 para. 2](#)
- F22** Word in [s. 7\(3\)\(a\)](#) substituted by [1987 c. 3, s. 1\(2\)](#), [Sch. 1 para. 7\(c\)](#)
- F23** [S. 7\(8\)](#) for subsection (8) there is substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 26\(1\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#))
- F24** Words inserted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 17\(2\)\(a\)](#)
- F25** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 17 para. 1](#)
- F26** Words substituted by virtue of [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 22 para. 2](#)

Marginal Citations

- M2** [1973 c. 37.](#)
- M3** [1945 c. 42.](#)
- M4** [1946 c. 42.](#)

8 Limited compulsory rights orders.

- (1) A compulsory rights order . . . ^{F27} may provide that its operation shall be limited so as to extend only to such one or more interests or rights (being interests or rights of a description mentioned in the next following subsection) as may be specified in the order.
- (2) Any interest or right specified in an order made in accordance with the preceding subsection shall be of one of the following descriptions, that is to say,—
- an easement or similar right in respect of the whole or part of the land comprised in the order;
 - a right restrictive of the use of the whole or part of that land;
 - the interest or rights created or conferred by a mining lease or order conferring working rights in respect of minerals in or under that land or part thereof.
- (3) In relation to a compulsory rights order which provides that its operation shall be limited as mentioned in subsection (1) of this section,—
- “persons directly concerned” in this Act means persons who for the time being are entitled to any interest or right specified in the order, and does not include any other person;
 - subsection (4) of section five of this Act, . . . ^{F27} shall have effect as if for the words from “confer upon the [^{F28}Corporation]” to the words “exclude other persons therefrom” there were substituted the words “as against all persons directly concerned, confer upon the [^{F28}Corporation], and upon persons

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authorised by the [^{F28}Corporation], the like right to exclude persons from the land comprised in the order”;

- (c) paragraph (b) of subsection (4) of the last preceding section shall have effect as if for the words “interest in, or right over, land not comprised in the order” there were substituted the words “interest or right not specified in the order”.

Textual Amendments

F27 Words repealed by [Coal Industry Act 1975 \(c. 56\), s. 5\(3\), Sch. 5](#)

F28 Word in [s. 8\(3\)\(b\)](#) substituted by [1987 c. 3, s. 1\(2\), Sch. 1 para. 7\(c\)](#)

9 Property exempt from inclusion in compulsory rights orders.

- (1) A compulsory rights order shall not comprise any part of a building which, at the time when the order is made, is a building whereof the whole or any part is occupied as a dwelling-house, or any part of the land adjacent to such a building which, at that time, is occupied together with the whole or part of that building and either—

- (a) is within fifty yards from a part of that building, or
(b) not being land falling within the preceding paragraph, and not being agricultural land, forms part of a garden, yard, court or forecourt belonging to that building.

- (2) ^{F29}

- (3) No compulsory rights order shall be made so as to comprise any land which is or has been comprised in a previous compulsory rights order as confirmed by the Minister, other than a previous order which, as so confirmed, provided that its operation should be limited as mentioned in subsection (1) of the last preceding section.

- (4) [^{F30}A compulsory rights order], as confirmed by the Minister, shall not comprise any land of which possession—

- (a) has previously been taken in the exercise of emergency powers, and
(b) has at any time (whether before or after the commencement of this Act) been retained in the exercise of those powers for the purpose of working coal on that land, or on land contiguous therewith, by opencast operations, and
(c) has before the confirmation of the order ceased to be retained in the exercise of those powers,

unless, at the time of confirming the order, the Minister is satisfied that there are special circumstances existing at that time, or special circumstances relating to the land in question, which justify its inclusion in [^{F30}a compulsory rights order] notwithstanding that possession thereof has previously been so taken and retained.

Textual Amendments

F29 [S. 9\(2\)](#) repealed (with saving) by [Housing and Planning Act 1986 \(c. 63, SIF 86\), s. 39\(1\)\(4\), Sch. 12 Pt. II](#)

F30 Words substituted by [Coal Industry Act 1975 \(c. 56\), Sch. 3 para. 6](#)

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10 Provisions as to minerals other than coal, and as to timber, crops etc.

- (1) A compulsory rights order shall confer upon the [F31Corporation], and upon persons authorised by the [F31Corporation], the right to get and carry away any minerals worked in the exercise of rights conferred by the order, in so far as any such minerals are not already the property of the [F31Corporation]; and any minerals got and carried away by virtue of this subsection, and removed from the land comprised in the order, shall become the property of the [F31Corporation].
- (2) Where, in the exercise of rights conferred by a compulsory rights order, any trees are felled, or any buildings, fences, sheds or other fixtures or structures are dismantled, the order shall confer upon the [F31Corporation], and upon persons authorised by the [F31Corporation], the right to carry away and dispose of the timber, or, as the case may be, of any resulting materials; and any timber or materials carried away by virtue of this subsection, and removed from the land comprised in the order, shall become the property of the [F31Corporation].
- (3) Where on the date of entry any crops are growing on any of the land comprised in a compulsory rights order, or any crops are grown on any of that land during the period of occupation, the order shall confer upon the [F31Corporation], and upon persons authorised by the [F31Corporation], the right during the period of occupation to harvest or lift those crops and to remove or otherwise dispose of them; and any crops harvested or lifted by virtue of this subsection shall become the property of the [F31Corporation].

Textual Amendments
F31 Word in s. 10 substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

11 Registration of compulsory rights orders.

- [F32(1) A compulsory rights order shall be a local land charge.]
- (2) F33
- (3) Any rules made [F34under section 14 of the M5Local Land Charges Act 1975 for the purposes of this section] shall include provision—
 - (a) for cancelling the registration of a compulsory rights order if the Minister decides not to confirm the order, or if the order is revoked, or at the end of the period for which it has effect, and
 - (b) for varying the registration of such an order if the order as confirmed by the Minister differs from the order as made, or if the order is subsequently varied.
- (4) In the application of this section to Scotland, the following subsection shall be substituted for subsections (1) to (3) of this section:—
 - “(1) As soon as may be after a compulsory rights order has been confirmed it shall be recorded by the [F35Corporation] in the appropriate register of sasines; and any order revoking or varying such an order shall be so recorded; and at the end of the period for which such an order has effect the [F35Corporation] shall so record notice that the order has ceased to have effect.”

Textual Amendments
F32 S. 11(1) substituted by Local Land Charges Act 1975 (c. 76), Sch. 1

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F33 S. 11(2) repealed by [Local Land Charges Act 1975 \(c. 76\)](#), Schs. 1, 2

F34 Words substituted by [Local Land Charges Act 1975 \(c. 76\)](#), **Sch. 1**

F35 Word in s. 11 substituted by [1987 c. 3, s. 1\(2\)](#), **Sch. 1 para. 7(c)**

Marginal Citations

M5 [1975 c. 76](#).

12 Removal and disposal of chattels from land comprised in compulsory rights order.

- (1) At any time on or after the operative date of a compulsory rights order, the [^{F36}Corporation] may serve notice on the person who is for the time being entitled to possession of any chattel which is on, under or over any of the land comprised in the order, requiring him to remove it from that land within such period, not being less than fifty-six days from the date of service of the notice, as may be specified in the notice:

Provided that this subsection shall not apply to any apparatus belonging to statutory undertakers, [^{F37} or to the body carrying on a sewerage undertaking or sewage disposal undertaking, and used by those undertakers or that body for the purposes of their undertaking, or belonging to a [^{F38}water authority] or other drainage authority and used by that authority][^{F37} and used by those undertakers for the purposes of their undertaking or belonging to an internal drainage board and used by that board] for the purposes of their functions.

- (2) If the person on whom a notice is served under the preceding subsection fails to comply with the notice within the period specified therein, the [^{F36}Corporation] may cause the chattel to which the notice relates to be removed from the land comprised in the order, or to be removed from one part of that land to another part thereof, and shall not be liable for any loss or damage attributable to the removal except any such loss or damage which is shown to be due to failure to exercise reasonable care.
- (3) Where the [^{F36}Corporation] cause a chattel to be removed under the last preceding subsection, the [^{F36}Corporation] may dispose of the chattel, by sale, destruction or otherwise, as the [^{F36}Corporation] may think fit, unless before the end of the period of three months beginning with the date of the removal the person for the time being entitled to possession of the chattel claims it from the [^{F36}Corporation] and takes all reasonable steps for accepting custody of it.
- (4) Where a chattel is sold in the exercise of the powers conferred by the last preceding subsection, the [^{F36}Corporation] shall pay the proceeds of sale to the person who was entitled to possession of the chattel immediately before the sale, and the receipt of that person shall be a sufficient discharge to the [^{F36}Corporation] for those proceeds.
- (5) In this section “chattel” includes apparatus of any description, whether above or below the surface of the land.

Textual Amendments

F36 Word in s. 12 substituted by [1987 c. 3, s. 1\(2\)](#), **Sch. 1 para. 7(c)**

F37 Words substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 26(2)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F38 Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), **s. 9**

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13 Apparatus of statutory undertakers and other bodies.

- (1) The ^{F39}provisions of section 271 of the Act of 1990 (which relates to the extinguishment of rights, and removal of apparatus, belonging to statutory undertakers) shall have effect in relation to land ^{F40}in respect of which opencast planning permission has been granted], but shall so have effect subject to the following modifications, that is to say,—
- (a) so much of those provisions as relates to the extinguishment of rights shall not apply;
 - (b) subject to the preceding paragraph, those provisions shall apply as if any reference to land which has been acquired or appropriated as therein mentioned were a reference to land ^{F41}in respect of which opencast planning permission has been granted], and as if any reference to the purchasing or appropriating authority were a reference to the ^{F42}Corporation];
 - (c) those provisions shall apply as if ^{F43}any reference to a statutory undertaking included a reference to a sewerage undertaking and to a sewage disposal undertaking and]any reference to the appropriate Minister were a reference to the appropriate Minister ^{F44}within the meaning of this Act]; and
 - (d) ^{F45}subsection (5) of the said section 271 shall]apply as if any reference to a local authority or statutory undertakers were a reference to the ^{F42}Corporation], and as if any reference to “the Minister” were a reference to ^{F46}the Secretary of State].
- (2) Without prejudice to the preceding subsection, the provisions of ^{F47}the said section 271 shall]have effect in relation to land ^{F48}in respect of which opencast planning permission has been granted]—
- (a) subject to the modifications specified in paragraphs (a), (b) and (d) of the preceding subsection, and
 - ^{F49}(b) as if any reference in those provisions to the person carrying on a statutory undertaking included a reference to a ^{F50}water authority] or other drainage authority, and, in relation to a ^{F50}water authority] or other drainage authority, any reference to the carrying on of the undertaking were a reference to the performance of the functions of the authority.]
 - ^{F49}(b) as if any reference in those provisions to the person carrying on a statutory undertaking included a reference to an internal drainage board and, in relation to an internal drainage board, any reference to the carrying on of the undertaking were a reference to the performance of the functions of the board.]
- (3) Where any requirement is imposed ^{F51}by virtue of section 271 of the Act of 1990 as applied by either of the preceding subsections, the provisions of sections 275 to 277 of that Act (which relate to the powers, duties and obligations of statutory undertakers) and of sections 278 to 282 of that Act (which]relate respectively to the procedure for dealing with objections under those sections and to the assessment of compensation) shall have effect in relation to that requirement (subject to the modifications specified in paragraphs (c) and (d) of subsection (1) of this section, or, as the case may be, subject to those modifications and the further modifications specified in paragraph (b) of the last preceding subsection) as if it were a requirement imposed under ^{F52}the said section 271].
- (4) For the avoidance of doubt, it is hereby declared that the provisions referred to in the preceding subsections apply in accordance with those subsections in relation to land ^{F53}in respect of which opencast planning permission has been granted]and constitutes the site of a ^{F54}highway][^{F54}road] which is for the time being stopped up or diverted

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(whether permanently or temporarily) by virtue of any enactment, as those provisions apply in relation to other land [^{F55}in respect of which opencast planning permission has been granted].

- (5) Subsection (3) of section thirty-two of the ^{M6}Mineral Workings Act 1951 (which applies the provisions of [^{F56}section 219 of the Town and Country Planning (Scotland) Act 1972 to roads stopped up or diverted by virtue of section 198 of that Act) shall not apply to land constituting the site of a [^{F57}highway][^{F57}road][^{F58}in respect of which opencast planning permission has been granted].

[^{F59}(5A) In subsections (4) and (5) above, “road” has the same meaning as in the Roads (Scotland) Act 1984]

- (6) In the application of this section to Scotland, [^{F60}for references to section 271, subsection (5) of that section and sections 275 to 282 of the Act of 1990 there shall be substituted respectively references to section 219, subsection (4) of that section, and sections 222 to 229 of the said Act of 1972; [^{F61}“highway”]includes a public right of way;] and in paragraph (d) of subsection (1), for the words “the Minister” there shall be substituted the words “the Secretary of State”.

Textual Amendments

- F39** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(i)**
- F40** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 4(a)(i)**
- F41** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 4(a)(ii)**
- F42** Word in s. 13 substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**
- F43** Words repealed (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 190(3), **Sch. 27 Part I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F44** Words substituted by S.I. 1970/1681, **Sch. 3 para. 1(4)**
- F45** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(i)**
- F46** Words substituted by virtue of S.I. 1969/1498, **arts. 2(1), 5(6)** and 1970/1537, arts. 2(2), 7(4)
- F47** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(ii)**
- F48** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 4(b)**
- F49** S. 13(2)(b) substituted (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 26(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F50** Words substituted by virtue of [Water Act 1973](#) (c. 37), **s. 9**
- F51** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(iii)**
- F52** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(iii)**
- F53** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 4(c)(i)**
- F54** Word substituted (S.) by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), ss. 128(1), 156(1), **Sch. 9 para. 49(a)**
- F55** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 4(c)(ii)**
- F56** Words substituted by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(iv)**
- F57** Word substituted (S.) by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 49(b)**
- F58** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 4(d)**

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F59 S. 13(5A) inserted (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 128(1), 156(1), **Sch. 9 para. 49(c)**

F60 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 5(a)(v)**

F61 Words repealed (S.) by Roads (Scotland) Act 1984 (c. 54, SIF 108), ss. 128(1), 156(1)(3), **Sch. 9 para. 49(d)**, Sch. 11

Modifications etc. (not altering text)

C2 “The Minister” in s. 13(1)(d) means Minister of Town and Country Planning exercising functions under **Town and Country Planning Act 1944 (c. 47)**

Marginal Citations

M6 1951 c. 60.

[^{F62}14 Provisions as to agricultural tenancies in England and Wales.

- (1) Without prejudice to the provisions of Part III of this Act as to matters arising between landlords and tenants in consequence of compulsory rights orders, the provisions of this section shall have effect where—
 - (a) opencast planning permission has been granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture or use for forestry, and
 - (b) immediately before that permission is granted, any of the land comprised therein consists of an agricultural holding or part of an agricultural holding whether any of that land is comprised in a compulsory rights order or not.
- (2) For the purposes of ^{M7} the Agricultural Holdings Act 1986 (in this Act referred to as “the Act of 1986”)—
 - (a) the holding shall not be taken to have ceased to be an agricultural holding; and
 - (b) where only part of the holding is comprised in opencast planning permission, that part shall not be taken to have ceased to form part of an agricultural holding,

by reason only that, while occupied or used for the permitted activities, the land is not being used for agriculture within the meaning of that Act.
- (3) For the purposes of the Act of 1986, the tenant of the holding shall not be taken to have failed to fulfill his responsibilities to farm in accordance with the rules of good husbandry—
 - (a) by reason of his having permitted any of the land comprised in the opencast planning permission to be occupied for the purpose of carrying on any of the permitted activities, or by reason of any other thing done or omitted by him for facilitating the use of any of that land for that purpose;
 - (b) where any of that land is comprised in a compulsory rights order, by reason of the occupation or use of any of that land in the exercise of rights conferred by the order, in so far as that occupation or use was not permitted or facilitated by the tenant as mentioned in the preceding paragraph.
- (4) For the purposes of the Act of 1986 nothing done or omitted by the tenant or by the landlord of the holding by way of permitting any of the land in respect of which opencast planning permission has been granted to be occupied for the purpose of carrying on any of the permitted activities, or by way of facilitating the use of any of

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that land for that purpose, shall be taken to be a breach of any term or condition of the tenancy, either on the part of the tenant or on the part of the landlord.

- (5) For the purpose of subsections (1) to (3) of section 27 of the Act of 1986 (Agricultural Land Tribunal’s consent to operation of notice to quit) the condition specified in paragraph (f) of subsection (3) of that section shall not be treated as satisfied if the use for the purpose for which the landlord proposes to terminate the tenancy is the use of the land for carrying on any of the permitted activities.
- (6) On a reference to arbitration under section 12 of the Act of 1986 with respect to the rent which should be properly payable for the holding, in respect of any period for which the [^{F63}Corporation] are in occupation of the holding, or of any part thereof, for the purpose of carrying on any of the permitted activities, the arbitrator shall not take into account any increase or diminution in the rental value of the holding in so far as that increase or diminution is attributable to the occupation of the holding, or of that part of the holding, by the [^{F63}Corporation] for the purpose of carrying on any of the permitted activities.
- (7) For the purpose of the operation of section 13 of the Act of 1986 (increases of rent for landlord’s improvements) in relation to improvements carried out on the holding, in a case where the improvements have been affected by anything done for the purpose of carrying on any of the permitted activities, the increase (if any) of the rental value of the holding attributable to the carrying out of the improvements shall be assessed as if it had not been done.
- (8) This section does not extend to Scotland.]

Textual Amendments

F62 For S. 14 there is substituted ss. 14, 14A by [Housing and Planning Act 1986 \(c. 63, SIF 86\), s. 39\(3\), Sch. 8 para. 5](#)

F63 Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(1\) \(2\), Sch. 1 para. 7\(c\)](#)

Marginal Citations

M7 [1986 c. 5 \(2:3\)](#)

[^{F64}14A Provisions as to agricultural tenancies in Scotland.

- (1) Without prejudice to the provisions of Part III of this Act as to matters arising between landlords and tenants in consequence of compulsory rights orders, the provisions of this section shall have effect in Scotland where—
 - (a) opencast planning permission has been granted subject to a restoration condition and to an aftercare condition in which the use specified is use for agriculture, and
 - (b) immediately before that permission is granted, any of the land comprised therein consists of an agricultural holding or part of an agricultural holding, whether any of that land is comprised in a compulsory rights order or not.
- (2) In this section—

“aftercare condition” means a condition requiring that such steps shall be taken as may be necessary to bring land to the standard required for use for agriculture; and

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“restoration condition” has the meaning given to it in section 27A(2) of the Town and Country Planning (Scotland) Act ^{M8}1972.

- (3) For the purposes of the [^{F65}the Scottish Act of 1991]—
- (a) the holding shall not be taken to have ceased to be an agricultural holding, and
 - (b) where only part of the holding is comprised in the opencast planning permission, that part shall not be taken to have ceased to form part of an agricultural holding,
- by reason only that, while occupied or used for the permitted activities, the land is not being used for agriculture within the meaning of that Act.
- (4) For the purposes of [^{F66}the Scottish Act of 1991], the tenant of the holding shall not be taken to have failed to fulfil his responsibilities to farm in accordance with the rules of good husbandry—
- (a) by reason of his having permitted any of the land comprised in the opencast planning permission to be occupied for the purpose of carrying on any of the permitted activities, or by reason of any other thing done or omitted by him for facilitating the use of any of that land for that purpose;
 - (b) where any of that land is comprised in a compulsory rights order, by reason of the occupation or use of any of that land in the exercise of rights conferred by the order, is so far as that occupation or use was not permitted or facilitated by the tenant as mentioned in the preceding paragraph.
- (5) For the purposes of [^{F66}the Scottish Act of 1991] nothing done or omitted by the tenant or by the landlord of the holding by way of permitting any land in respect of which opencast planning permission has been granted to be occupied for the purpose of carrying on any of the permitted activities, or by way of facilitating the use of any of that land for that purpose, shall be taken to be a breach of any term or condition of the tenancy, either on the part of the tenant or on the part of the landlord.
- (6) For the purposes of [^{F66}section 22(2) of the Scottish Act of 1991], no account is to be taken of permission granted as mentioned in paragraph [^{F66}(b)] of that subsection if the permission—
- (a) is granted on an application by the [^{F67}British Coal Corporation]; and
 - (b) relates to the working of coal by opencast operations; and
 - (c) is granted subject to a restoration condition and an aftercare condition.
- (7) [^{F68}The condition specified in section 24(1)(e) of the Scottish Act of 1991 (consent of Land Court to notice to quit where land to be used for purposes other than agriculture)] shall not be treated as satisfied if the use for the purpose of which the landlord proposes to terminate the tenancy is the use of the land for carrying on any of the permitted activities.
- (8) On a reference to arbitration under [^{F68}section 13 of the Scottish Act of 1991] with respect to the rent which should be properly payable for the holding, in respect of any period for which the [^{F69}Corporation] are in occupation of the holding, or of any part thereof, for the purpose of carrying on any of the permitted activities, the arbiter shall not take into account any increase or diminution in the rental value of the holding in so far as that increase or diminution is attributable to the occupation of the holding, or of that part of the holding, by the [^{F69}Corporation] for the purpose of carrying on any of the permitted activities.
- (9) For the purpose of the operation of [^{F68}section 15 of the Scottish Act of 1991] (which relates to increases of rent for improvements carried out by the landlord) in relation

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to an improvement carried out on the holding, in a case where the improvement has been affected by anything done for the purpose of carrying on any of the permitted activities, the increase (if any) of the rental value of the holding attributable to the carrying out of the improvement shall be assessed as if the improvement had not been so affected.

- (10) The use of land for the working of coal by opencast operations shall not be a use for the purposes of which a landlord shall be entitled to resume the land.]

Textual Amendments

- F64** For S. 14 there is substituted ss. 14, 14A by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 5](#)
- F65** Words in s. 14A(3) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11 para. 12\(a\)](#)(with s. 45(3), Sch. 12 para. 3)
- F66** Words in s. 14A(4)(5)(6) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11](#), para. 12(b)(c)(d)(with s. 45(3), Sch. 12 para. 3)
- F67** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), [s. 1\(1\)](#) (2), Sch. 1 para. 7(b)
- F68** Words in s. 14A(7)(8)(9) substituted (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88, 89(2), [Sch. 11 para. 12\(e\)\(f\)\(g\)](#)(with s. 45(3), Sch. 12 para. 3)
- F69** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), [s. 1\(1\)](#) (2), Sch. 1 para. 7(c)

Marginal Citations

- M8** [1972 c.52 \(123:2\)](#).

VALID FROM 01/09/1995

^{F70}14B Provisions as to farm business tenancies.

- (1) Without prejudice to the provisions of Part III of this Act as to matters arising between landlords and tenants in consequence of compulsory rights orders, the provisions of this section shall have effect where—
- (a) opencast planning permission has been granted subject to a restoration condition, and
 - (b) immediately before that permission is granted, any of the land comprised therein consists of the holding or part of the holding held under a farm business tenancy,
- whether any of that land is comprised in a compulsory rights order or not.
- (2) For the purposes of section 1 of the Agricultural Tenancies Act 1995 (in this Act referred to as “the Act of 1995”), the land shall be taken, while it is occupied or used for the permitted activities, to be used for the purposes for which it was used immediately before it was occupied or used for the permitted activities.
- (3) For the purposes of the Act of 1995, nothing done or omitted by the tenant or by the landlord under the tenancy by way of permitting any of the land in respect of which opencast planning permission has been granted to be occupied for the purpose of carrying on any of the permitted activities, or by way of facilitating the use of any of that land for that purpose, shall be taken to be a breach of any term or condition of the tenancy, either on the part of the tenant or on the part of the landlord.

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- (4) In determining under subsections (1) and (2) of section 13 of the Act of 1995 the rent which should be properly payable for the holding, in respect of any period for which the person with the benefit of the opencast planning permission is in occupation of the holding, or of any part thereof, for the purpose of carrying on any of the permitted activities, the arbitrator shall disregard any increase or diminution in the rental value of the holding in so far as that increase or diminution is attributable to the occupation of the holding, or of that part of the holding, by that person for the purpose of carrying on any of the permitted activities.
- (5) In this section “holding”, in relation to a farm business tenancy, has the same meaning as in the Act of 1995.
- (6) This section does not extend to Scotland.]

Textual Amendments

F70 S. 14B inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), SCh. para. 14 (with s. 37)

[^{F71}15 Suspension of certain public rights of way.

- (1) Where—
- (a) the [^{F72}Corporation] apply for opencast planning permission; and
 - (b) over any part of the land to which the application relates there subsists a public right of way, not being a right enjoyed by vehicular traffic,
- the [^{F72}Corporation] may also apply to the Secretary of State for an order suspending the public right of way.
- (2) The Secretary of State shall not make such an order unless—
- (a) opencast planning permission is granted; and
 - (b) he is satisfied—
 - (i) That a suitable alternative way will be made available by the [^{F72}Corporation](whether on land comprised in the opencast planning permission or on other land) for use by the public during the period for which the order remains in force; or
 - (ii) that the provision of such an alternative way is not required.
- (3) An order under this section shall specify the date, which shall not be earlier than the making of the order, with effect from which the right of way is suspended.
- (4) Where an order has been made under this section the Secretary of State shall revoke it—
- (a) if—
 - (i) no permitted activities have been carried on pursuant to the opencast planning permission on the land over which the right of way subsisted; and
 - (ii) he is satisfied that there is no early prospect of such activities being so carried on; or
 - (b) as soon after such permitted activities have been so carried on as he is satisfied that it is no longer necessary for the purpose of carrying on such permitted activities that the right of way should be suspended.

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- (5) An order under this section shall include such provisions as may appear to the Secretary of State to be appropriate for securing the reconstruction of the way on the restoration of the land over which the right of way subsisted immediately before the order was made.
- (6) Where an order is made under this section then, in connection with the provision of such a suitable alternative way as is referred to in subsection (2) above,—
- (a) the order under this section may provide that, in so far as the carrying out of any operation, or any change in the use of land, involved in making the alternative way available or in permitting it to be used by the public, constitutes development within the meaning of [F73the Act of 1990], permission for that development shall be deemed to be granted under Part III of that Act subject to such conditions (if any) as may be specified in the order;
 - (b) where the order under this section includes provisions in accordance with paragraph (a) above, [F73the Act of 1990] shall have effect as if they were conditions subject to which the opencast planning permission was granted;
 - (c) if a compulsory rights order referring to the opencast planning permission is made, then, in the application to that order of section 5(5) above, the permitted activities shall be taken to include making an alternative way available for use by the public, and the right exercisable in accordance with that subsection, as against all persons directly concerned, shall include the right to permit the public to use any way so made available; and
 - (d) if the land on which the alternative way is to be made available is specified in the order under this section and is land which does not form part of, but is contiguous with, the land to which the opencast planning permission relates, a compulsory rights order referring to the opencast planning permission may include that land as if it were part of the land comprised in the permission.
- (7) In the application of this section to Scotland, it shall be read as if for [F73the Act of 1990] there were substituted ^{M9}“the Town and Country Planning (Scotland) Act 1972”.]

Textual Amendments

F71 For S. 15 there is substituted ss. 15, 15A by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), ss. 39(3), [Sch. 8 para. 6](#)

F72 Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), [s. 1\(1\) \(2\)](#), Sch. 1 para. 7(c)

F73 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 5\(b\)](#)

Modifications etc. (not altering text)

C3 [S. 15](#) restricted (31.10.1994) by [1994 c. 21, s. 52\(1\)\(b\)\(3\)](#) (with s. 40(7)); S.I. 1994/2553, [art. 2](#)

Marginal Citations

M9 [1972 c.52 \(123:2\)](#).

[F74] 15A. Suspension of public rights of way—supplementary.

- (1) Before submitting to the Secretary of State an application for an order under section 15 of this Act, the [F75Corporation] shall publish a notice in the prescribed form identifying the right of way and stating—

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- (a) that the [^{F75}Corporation] are proposing to apply for an order suspending it in connection with the working of coal by open-cast operations;
 - (b) that opencast planning permission has been applied for, or, as the case may be, has been granted; and
 - (c) that objections to the application for 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.
- (2) The duty to publish a notice imposed by subsection (1) above is a duty to publish it—
 - (a) in two successive weeks in one or more local newspapers circulating in the locality in which the land over which the right of way subsists is situated; and
 - (b) in the same or any other two successive weeks, in the appropriate Gazette.
 - (3) The period within which objections may be made expires when the period specified in the last publication of the notice expires; and any period specified in earlier publications is to be treated as extended accordingly.
 - (4) A notice under subsection (1) above shall name a place in the locality where a copy of the application and of a map showing the right of way can be inspected.
 - (5) The [^{F75}Corporation] shall also, before submitting such an application to the Secretary of State,—
 - (a) inform—
 - (i) in England and Wales, the district council and, except in the case of a metropolitan district, the county council, and any parish or community council or parish meeting; and
 - (ii) in Scotland, every local authority in whose area any part of the land over which the right of way subsists is situated of the right to object conferred by subsection (1) above;
 - (b) send them a map showing the right of way and a copy of their notice under subsection (1) above; and
 - (c) affix to some conspicuous object at either end of the right of way a notice giving in the prescribed form the prescribed particulars of their proposed application concerning it and of the right to object.
 - (6) If no objection is made by any such authority other than a parish or community council or parish meeting, as is mentioned in subsection (5)(a) above, or if all objections which are made by any such authority are withdrawn, the Secretary of State, upon being satisfied that the [^{F75}Corporation] have complied with subsection (1) to (5) above, may if he thinks fit make the order.
 - (7) The Secretary of State may, if he thinks fit, cause a public local inquiry to be held before determining whether to make an order, and shall cause such an inquiry to be held if an objection is made by any such authority and is not withdrawn.
 - (8) If the Secretary of State causes such an inquiry to be held, he shall consider all objections to the application which are duly made by any person and not withdrawn and the report of the person who held the inquiry before determining whether to make the order.
 - (9) An order under section 15 of this Act may be made either in accordance with the [^{F75}Corporation's] application or subject to such modifications as the Secretary of State may determine.

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- (10) If the Secretary of State makes an order, the [^{F75}Corporation], as soon as may be after the order is made, shall publish a notice in the prescribed form that the order has been made, describing the right of way which is suspended, stating the date on which the order comes into operation and naming a place in the locality where a copy of the order and of any map to which it refers can be inspected at all reasonable hours, and shall serve a like notice and a copy of the order on any body required under this section to be informed of the application for the order.
- (11) The duty to publish a notice imposed by subsection (10) above is a duty to publish it—
- (a) in one or more local newspapers such as are mentioned in subsection (1) above; and
 - (b) in the appropriate Gazette.
- (12) In this section “the appropriate Gazette” means—
- (a) the London Gazette in a case where the land over which the right of way subsists is situated in England or Wales; and
 - (b) the Edinburgh Gazette in a case where it is situated in Scotland.]

Textual Amendments

- F74** For S. 15 there is substituted ss. 15, 15A by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), ss. 39(3), [Sch. 8 para. 6](#)
- F75** Word substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(1) (2), Sch. 1 para. 7(c)

16 Acquisition of rights for purposes of drainage or water supply.

- (1) For the purpose of draining land [^{F76}in respect of which opencast planning permission has been granted], the Minister may authorise the [^{F77}Corporation] to purchase compulsorily a right to place drainage works on any other land, whether above or below ground, and to use, repair and maintain those works, without purchasing any other interest in that land.
- (2) For the purpose of bringing a supply of water to land [^{F76}in respect of which opencast planning permission has been granted], the Minister may authorise the [^{F77}Corporaion]to purchase compulsorily a right to place water pipes on any other land, whether above or below ground, and to use, repair and maintain those pipes, without purchasing any other interest in that land.
- (3) An order authorising the compulsory purchase of a right by virtue of this section shall specify the land (being the whole or part of the land [^{F78}in respect of which the permission was granted]) for the benefit of which the right is to be acquired.
- (4) Any right purchased by the [^{F77}Corporation] in pursuance of such an order—
- (a) if so purchased while the [^{F77}Corporation] are in occupation of the land specified in the order in accordance with the last preceding subsection, shall be exercisable by the [^{F77}Corporation], and by persons authorised by the [^{F77}Corporation], while the [^{F77}Corporation]continue to be in occupation of that land;
 - (b) whether purchased while the [^{F77}Corporation] are in occupation of that land or not, shall be treated for all purposes as an easement appurtenant in perpetuity to that land.

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Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I. (See end of Document for details)

- [^{F79}(4A) In relation to the compulsory purchase of a right by virtue of this section—
- (a) the ^{M10}Acquisition of Land Act 1981 shall apply, and
 - (b) that Act and the ^{M11}Compulsory Purchase Act 1965 shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed, where the context so requires, as references to the land on which the works or pipes are to be placed, and references to the obtaining or taking possession of the first mentioned land were construed as references to the exercise of the right.]
- [^{F80}(5) In relation to the compulsory purchase of a right by virtue of this section—
- (a) the Acquisition of Land Act shall apply as if the [^{F77}Corporation] were a local authority within the meaning of that Act and as if this Act had been in force immediately before the commencement of that Act; and
 - (b) that Act, and the enactments incorporated therewith, shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed, where the context so requires, as references to the land on which the works or pipes are to be placed, and references to the obtaining or taking possession of the first-mentioned land were construed as references to the exercise of the right.]
- (6) The provisions of section eleven of this Act shall apply in relation to a compulsory purchase order made by virtue of this section as they apply in relation to a compulsory rights order.
- (7) In this section “drainage works” includes any pipes or other works for draining land and any works accessory to such works; and—
- (a) any right to maintain drainage works or water pipes in pursuance of an order made by virtue of this section shall include the right to remove those works or pipes, whether for the purpose of replacing them by other drainage works or water pipes or otherwise, and
 - (b) any right to maintain drainage works on any land in pursuance of such an order shall, if the order so provides, include a right to discharge water from those works on to that land.
- (8) Nothing in this section shall be construed as authorising any interference with the exercise of a public right of way, or any contravention of a prohibition or restriction imposed by or under any enactment (whether contained in a public general Act or in any other Act).
- (9) In the application of this section to Scotland, for references to the Acquisition of Land Act there shall be substituted references to the Scottish Acquisition of Land Act; and for subsection (4) there shall be substituted the following subsection:—
- “(4) The title to any right purchased by the [^{F77}Corporation] in pursuance of such an order shall be recorded by the [^{F77}Corporation] in the appropriate register of sasines, and on the title being so recorded the right shall be exercisable in all time coming by the [^{F77}Corporation] or any other person in occupation of the land specified in the order in accordance with the last preceding subsection.”

Textual Amendments

F76 Words substituted by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(3), [Sch. 8 para. 7\(a\)](#)

F77 Word in s. 16 substituted by [1987 c. 3, s. 1\(2\)](#), [Sch. 1 para. 7\(c\)](#)

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- F78** Words substituted by [Housing and Planning Act 1986](#) (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 7(b)**
F79 [S. 16\(4A\)](#) inserted by [Acquisition of Land Act 1981](#) (c. 67, SIF 28:1), s. 34(1), **Sch. 4 para. 11(4)**
F80 [S. 16\(5\)](#) repealed (E.W.) by [Acquisition of Land Act 1981](#) (c. 67, SIF 28:1), s. 34(3), **Sch. 6 Pt. I**

Modifications etc. (not altering text)

- C4** [S. 16](#) restricted (31.10.1994) by 1994 c. 21, **s. 52(1)(c)(3)** (with ss. 40(7), 67, [Sch. 10 para. 9\(5\)](#)); S.I. 1994/2553, **art. 2**
C5 [S. 16\(9\)](#) amended by [Land Registration \(Scotland\) Act 1979](#) (c. 33, SIF 31:3), **s. 29(2)(3)**

Marginal Citations

- M10** [1981 c.67](#) (28:1).
M11 [1965 c.56](#) (28:1).

Status:

Point in time view as at 25/09/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Part I.