



Opencast Coal Act 1958

1958 CHAPTER 69

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

1 Authorisation of opencast working of coal

- (1) The National Coal Board (in this Act referred to as " the Board ") shall not work any coal by opencast operations, or cause or permit any coal to be worked by such operations, except in pursuance of an authorisation granted in that behalf by the Minister of Power (in this Act referred to as " the Minister "):

Provided that this subsection shall have effect subject to the provisions of section forty-six of this Act and to the transitional provisions having effect by virtue of section forty-eight of this Act.

- (2) The provisions of the First Schedule to this Act shall have effect with respect to authorisations under this section.
- (3) Except in so far as any rights are conferred upon the Board by virtue of the following provisions of this Act, an authorisation under this section shall not confer upon the Board any rights or powers to which the Board would not be entitled if this section had not been enacted.
- (4) In the following provisions of this Act any reference to the land comprised in an authorisation under this section is a reference to the aggregate of the land specified in the authorisation as land which the Board will require to occupy for the purpose of enabling authorised operations to be carried out.
- (5) In this Act " the authorised purposes ", in relation to an authorisation under this section, means either or both of the following, that is to say, the purposes—
- (a) of working coal by opencast operations in pursuance of the authorisation, and
 - (b) of restoring land affected by the working of coal in pursuance of the authorisation or by operations connected therewith,

and " authorised operations ", in relation to such an authorisation, means operations carried out for, or incidental to, the fulfilment of the authorised purposes.

2 Planning permission for authorised operations

(1) Upon granting an authorisation under the preceding section, the Minister may direct that, in so far as the carrying out of any authorised operations, or any change in the use of land which is made for the authorised purposes, constitutes development within the meaning of the Town and Country Planning Act, 1947 (in this Act referred to as " the Act of 1947 "), permission for that development shall be deemed to be granted under Part III of that Act, subject to such conditions as may be specified in the directions.

(2) Any directions given by the Minister under this section shall include such conditions as the Minister may consider reasonable with respect to the restoration, by or at the cost of the Board, of land worked or damaged in the course of any authorised operations:

Provided that, in the case of land which, at the time when the directions are given, is agricultural land, the conditions so included (except where the Minister is satisfied that the land is not likely to be used as agricultural land when it ceases to be occupied for the authorised purposes) shall be such as in the opinion of the Minister will secure its restoration so as to be reasonably fit for use as agricultural land.

(3) Where permission is deemed to be granted under Part III of the Act of 1947 by virtue of any directions given under this section, the provisions of that Act shall apply in relation thereto as if the permission had been granted by the Minister of Housing and Local Government on an application referred to him under section fifteen of that Act; and, in so far as any conditions specified in the directions are conditions of such a description that they could not have been imposed by that Minister on granting permission on such an application, those provisions shall apply as if the powers exercisable by that Minister by virtue of the said section fifteen included power to impose conditions of that description.

(4) Where the Minister has granted an authorisation under the preceding section, and any of the land comprised in the authorisation is affected by a tree preservation order,—

- (a) subject to the following provisions of this subsection, any authorised operations may be carried out as if the tree preservation order had not been made ;
- (b) in giving any directions under this section in connection with such an authorisation, in relation to land affected by a tree preservation order, the Minister shall consider what conditions (if any) should be imposed with respect to the planting of trees in place of any which may be felled in the course of the operations, or for securing the preservation of particular trees; and
- (c) without prejudice to the last preceding paragraph, the Minister may designate any trees on that land which in his opinion should be excepted from the operation of paragraph (a) of this subsection, and that paragraph shall not apply to any trees designated by the Minister under this paragraph.

(5) The Board shall not be entitled by virtue of the Act of 1947 or any regulations made thereunder to the payment of compensation by any local planning authority in respect of—

- (a) any order revoking or modifying permission deemed to have been granted by virtue of directions under this section, or

- (b) any order (not falling within the preceding paragraph) revoking or modifying permission for the working of coal by opencast operations or for any development incidental to any such working of coal, or
- (c) any decision whereby any such permission as is mentioned in the last preceding paragraph is refused, or is granted subject to conditions, or
- (d) any order or decision (not falling within any of the preceding paragraphs) relating to land in respect of which, immediately before that order or decision, there is in force any such permission as is mentioned in paragraph (a) or paragraph (b) of this subsection,

being (in any such case) an order or decision in respect of which, apart from this subsection, a right to claim compensation from the local planning authority would have accrued after the commencement of this Act.

- (6) In this section " tree preservation order " has the meaning assigned to it by section twenty-eight of the Act of 1947.
- (7) In the application of this section to Scotland, for references to the Act of 1947, to Part III of that Act, and to sections fifteen and twenty-eight of that Act, there shall be substituted respectively references to the Town and Country Planning (Scotland) Act, 1947 (in this Act referred to as " the Scottish Act of 1947 "), to Part II of that Act, and to sections thirteen and twenty-six of that Act; and for the references to the Minister of Housing and Local Government there shall be substituted references to the Secretary of State.

3 Preservation of amenity

- (1) Where for the purposes of section one or section two of this Act—
 - (a) the Board are formulating any proposals as to the working of coal by opencast operations or the carrying out of operations connected therewith, or
 - (b) the Minister is considering any such proposals, whether in relation to the granting of an authorisation under section one or to the imposition of conditions under the last preceding section

the Board or the Minister, as the case may be, having regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest, and of protecting buildings and other objects of architectural or historic interest, shall take into account any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, buildings or objects.

- (2) The provisions of the preceding subsection shall apply, with the necessary modifications, where—
 - (a) the Board are formulating any proposals as to the restoration of land affected by the working of coal by opencast operations or by operations connected therewith, or
 - (b) the Minister is considering any such proposals, whether in relation to the granting of an authorisation under section one or to the imposition of conditions under the last preceding section,

as those provisions apply in the circumstances mentioned in the preceding subsection.

4 Compulsory rights orders

- (1) For the purpose of facilitating the working of coal by opencast operations, the Board may, by means of an order (in this Act referred to as a " compulsory rights order ") made by the Board and confirmed by the Minister, compulsorily acquire temporary rights of occupation and use of land in accordance with the following provisions of this Part of this Act:

Provided that no compulsory rights order shall be made after the end of the period of ten years beginning with the commencement of this Act.

- (2) Subject to the next following subsection, a compulsory rights order may be either—
- (a) an order (in this Act referred to as an " opencast site order ") whereby, when the order becomes operative, the Board compulsorily acquire temporary rights of occupation and use of the whole or part of the land comprised in an authorisation under section one of this Act; or
 - (b) an order (in this Act referred to as a " storage site order ") whereby, when the order becomes operative, the Board compulsorily acquire temporary rights of occupation and use of land for the purpose of storing, cleaning or sorting coal or otherwise preparing it for disposal.
- (3) A storage site order shall not be made in respect of any land unless—
- (a) possession of that land was taken in the exercise of emergency powers before the eighteenth day of December, nineteen hundred and fifty-seven ;
 - (b) possession of that land was on that day retained in the exercise of those powers for the purpose of storing, cleaning or sorting coal or otherwise preparing it for disposal, and continues to be so retained for that purpose at the time when the order is made ; and
 - (c) during the period beginning with that day and ending with the date on which the order is made, the coal stored or otherwise dealt with on that land has been wholly or mainly coal got by opencast operations.
- (4) The period for which a compulsory rights order has effect shall be a period beginning with the date on which the order becomes operative (in this Act referred to as " the operative date ") and being—
- (a) in the case of an opencast site order, a period of such duration, not exceeding ten years, as may be specified in the order;
 - (b) in the case of a storage site order, a period not extending beyond the tenth anniversary of the date of the commencement of this Act, and (subject to that limitation) of such duration as may be specified in the order:

Provided that this subsection shall have effect subject to the provisions of Part III of this Act as to the variation of orders.

- (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.
- (6) A compulsory rights order, being an opencast site-order, may be made either before or after the granting, of an authorisation under section one of this Act to work the coal in question, so however that

- (a) where the order is made after the relevant authorisation has been granted, the order, as from the time when it is made, shall include a reference to that authorisation ;
 - (b) where the order is made before the relevant authorisation has been granted, the Minister shall not confirm it unless he grants that authorisation, and, if he grants the authorisation and confirms the order, the order as confirmed shall include a reference to that authorisation; and
 - (c) in either case, the order, as confirmed, shall not extend to any land which is not comprised in the authorisation referred to in the order.
- (7) The Lands Clauses Acts 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 Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947 (in this Act referred to as " the Scottish Acquisition of Land Act ").

5 Effect of opencast site orders

- (1) Subject to the following provisions of this Part of this Act, the effect of an opencast site order shall be in accordance with the provisions of this section.
- (2) The Board 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 Board, and upon persons authorised by the Board, the like rights to occupy the land comprised in the order, and to exclude other persons therefrom, as if the Board 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, an opencast site order shall confer upon the Board, and upon persons authorised by the Board, 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 Board, in relation to the authorisation referred to in the order, to be requisite for, or incidental to, the fulfilment of the authorised purposes.
- (6) Subject to the following provisions of this Act, in this Act " persons directly concerned ", in relation to an opencast site 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.

6 Effect of storage site orders

- (1) Subject to the provisions of this Part of this Act, the effect of a storage site order shall be in accordance with the following provisions of this section.
- (2) As from the operative date, 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 Board, and upon persons authorised by the Board, the like rights to occupy the land comprised in the order, and to exclude other persons therefrom, as if the Board had acquired a freehold interest in the entirety of that land with vacant possession and free from incumbrances of any description.
- (3) In addition to the rights mentioned in the last preceding subsection, a storage site order shall confer upon the Board, and upon persons authorised by the Board, 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 Board to be requisite for the purpose of the use of that land for storing, cleaning or sorting coal or otherwise preparing it for disposal.
- (4) Subject to the following provisions of this Act, in this Act "persons directly concerned", in relation to a storage site 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.

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, or in accordance with subsection (3) of section six of this Act, 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 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, or of the body carrying on a sewerage undertaking or sewage disposal undertaking, or of any river board or other drainage authority, 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 Board have been entitled to serve a notice under the provisions of the Town and Country Planning Act, 1944, applied by section thirteen of this Act.
- (3) In relation to an opencast site order, the said rights also include the following:—

- (a) the rights conferred by any agreement made by the Board and for the time being in force whereby (apart from this Act) the Board are required to leave any coal un-worked;
 - (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, or of subsection (2) of section six of this Act.
- (6) Without prejudice to the preceding provisions of this section, nothing in section .five or section six of this Act 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, or in subsection (4) of section six of this Act, 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.
- (8) In this section " statutory water undertakers" and " local enactment " have the same meanings as in the Water Act, 1945.
- (9) In the application of this section to Scotland, for references to statutory water undertakers, to the Water Act, 1945, and to the Town and Country Planning Act, 1944, there shall be substituted respectively references to a local water authority, to the Water (Scotland) Act, 1946, and to the Town and Country Planning (Scotland) Act, 1945.

8 Limited compulsory rights orders

- (1) A compulsory rights order (whether it is an opencast site order or a storage site order) 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.

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

- (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,—
 - (a) an easement or similar right in respect of the whole or part of the land comprised in the order;
 - (b) a right restrictive of the use of the whole or part of that land;
 - (c) 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,—
 - (a) " 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;
 - (b) subsection (4) of section five of this Act, or subsection (2) of section six of this Act, as the case may be, shall have effect as if for the words from " confer upon the Board" to the words " exclude other persons therefrom " there were substituted the words " as against all persons directly concerned", confer upon the Board, and upon persons authorised by the Board, the like right 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 ".

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) Without prejudice to the preceding subsection, an opencast site order, as confirmed by the Minister, shall not include any land which, on the date on which the authorisation referred to in the order was granted, was covered by a building, unless, on the granting of that authorisation.—
 - (a) the Minister gave directions under section two of this Act;
 - (b) those directions included conditions for the restoration of the building or its replacement by another building or (where a structure other than a building would be of comparable benefit to the land) by a structure of a description specified in the directions;
 - (c) those conditions were stated in the directions to be the conditions appearing to the Minister to be appropriate, having regard to the purpose for which the building was then used ; and
 - (d) those conditions specified a time within which the restoration or replacement of the building was to be completed, being a time not later than the end of the period specified in the order as the period for which the order is to have effect.

- (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) An opencast site 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 an opencast site order notwithstanding that possession thereof has previously been so taken and retained.

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

- (1) A compulsory rights order shall confer upon the Board, and upon persons authorised by the Board, 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 Board; 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 Board.
- (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 Board, and upon persons authorised by the Board, 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 Board.
- (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 Board, and upon persons authorised by the Board, 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 Board.

11 Registration of compulsory rights orders

- (1) As soon as may be after a compulsory rights order has been made, it shall be registered in the prescribed manner in the register of local land charges by the proper officer of the council of any county borough or county district in which the land comprised in the order, or any part of that land, is situated; and it shall be the duty of the Board to notify the making of a compulsory rights order to any such officer by whom the order is required to be so registered, and to furnish him with all necessary information relating to the order.
- (2) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be

exercisable for giving effect to the provisions of the preceding subsection; and in the preceding subsection "prescribed" means prescribed by rules made in the exercise of that power.

- (3) Any rules made by virtue of subsection (6) of the said section fifteen as applied by the last preceding subsection 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 Board 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 Board shall so record notice that the order has ceased to have effect.”

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 Board 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, 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 river board or other drainage authority and used by that authority 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 Board 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 Board cause a chattel to be removed under the last preceding subsection, the Board may dispose of the chattel, by sale, destruction or otherwise, as the Board 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 Board 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 Board 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 Board for those proceeds.

- (5) In this section "chattel" includes apparatus of any description, whether above or below the surface of the land.

13 Apparatus of statutory undertakers and other bodies

- (1) The provisions of section twenty-five of the Town and Country Planning Act, 1944 (which relates to the extinguishment of rights, and removal of apparatus, belonging to statutory undertakers) shall have effect in relation to land which is for the time being comprised in an authorisation under section one of this Act, 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 Comprised in an authorisation under section one of this Act, and as if any reference to the purchasing or appropriating authority were a reference to the Board;
 - (c) those provisions shall apply as if 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 as defined by this Act; and
 - (d) subsection (4) of the said section twenty-five shall apply as if any reference to a local authority or statutory undertakers were a reference to the Board, and as if any reference to " the Minister " were a reference to the Minister of Power.
- (2) Without prejudice to the preceding subsection, the provisions of the said section twenty-five shall have effect in relation to land which is for the time being comprised in an authorisation under section one of this Act—
- (a) subject to the modifications specified in paragraphs (a), (b) and (d) of the preceding subsection, and
 - (b) as if any reference in those provisions to the person carrying on a statutory undertaking included a reference to a river board or other drainage authority, and, in relation to a river board 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.
- (3) Where any requirement is imposed by virtue of section twenty-five of the said Act of 1944 as applied by either of the preceding subsections, the provisions of sections twenty-six and twenty-seven of that Act (which relate to the powers, duties and obligations of statutory undertakers) and of the First and Fourth Schedules to 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 the said section twenty-five as applied for the purposes of Part IV of the Act of 1947.
- (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 which is comprised in an authorisation under section one of this Act and constitutes the site of a highway which is for the time being stopped up or diverted (whether

permanently or temporarily) by virtue of any enactment, as those provisions apply in relation to other land comprised in such an authorisation.

- (5) Subsection (3) of section thirty-two of the Mineral Workings Act, 1951 (which applies the provisions of the said section twenty-five to highways stopped up or diverted by virtue of section forty-nine of the Act of 1947), shall not apply to land constituting the site of a highway which is for the time being comprised in an authorisation under section one of this Act.
- (6) In the application of this section to Scotland, for references to sections twenty-five, twenty-six and twenty-seven of the Town and Country Planning Act, 1944, and to the First and Fourth Schedules to that Act, there shall be substituted respectively references to sections twenty-four, twenty-five and twenty-six of the Town and Country Planning (Scotland) Act, 1945, and to the First and Fourth Schedules to that Act; for references to section forty-nine of the Act of 1947 and to Part IV of that Act there shall be substituted respectively references to section forty-six of the Scottish Act of 1947 and to Part III of that Act; " 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 " .

14 Provisions as to agricultural 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) an authorisation is granted under section one of this Act, and
 - (b) immediately before that authorisation becomes operative, 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 the Agricultural Holdings Act, 1948 (in this Act referred to as " the Act of 1948 ")—
 - (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 authorisation, 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 authorised purposes, the land is not being used for agriculture within the meaning of that Act.
- (3) For the purposes of the Act of 1948, 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 authorisation to be occupied for the authorised purposes, or by reason of any other thing , done or omitted by the tenant for facilitating the use of any of that land for those purposes, or
 - (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 1948 nothing done or omitted by the tenant or by the landlord of the holding by way of permitting any of the land comprised in the

authorisation to be occupied for the authorised purposes, or by way of facilitating the use of any of that land for those purposes, 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 purposes of paragraph (b) of subsection (2) of section twenty-four of the Act of 1948 (which relates to a notice to quit given on the ground that the land is required for a use, other than for agriculture, for which planning permission has been granted, or for which planning permission is not required) no account shall be taken of the provisions of section two of this Act, and that paragraph shall apply as if section two of this Act had not been enacted.
- (6) For the purposes of subsection (1) of section twenty-five of the Act of 1948 (which specifies conditions for the giving of consent under section twenty-four of that Act to the operation of a notice to quit) the condition specified in paragraph (e) of that subsection 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 the authorised purposes.
- (7) On a reference to arbitration under section eight of the Act of 1948 with respect to the rent which should be properly payable for the holding, in respect of any period for which the Board are in occupation of the holding, or of any part thereof, for the authorised purposes, 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 Board for those purposes, or to any authorised operations.
- (8) For the purposes of the operation of section nine of the Act of 1948 (which relates to increases of rent for improvements carried out by the landlord) in relation to an improvement carried out on the holding, in a case where the improvement has been affected by any authorised operations, the increase (if any) of the rental value of the holding attributable to the carrying out of the improvement shall be assessed as if those operations, in so far as they have affected the improvement, had not been carried out.
- (9) In the application of this section to Scotland—
 - (a) for the references to the Act of 1948, to sections eight and nine of that Act, to paragraph (b) of subsection (2) of section twenty-four of that Act, to subsection (1) of section twenty-five of that Act and to paragraph (e) of the said subsection (1), there shall be substituted respectively references to the Agricultural Holdings (Scotland) Act, 1949 (in this Act referred to as " the Scottish Act of 1949 "), to sections seven and eight of that Act, to paragraph (c) of subsection (2) of section twenty-five of that Act, to subsection (1) of section twenty-six of that Act, and to paragraph (e) of subsection (1) of the said section twenty-six;
 - (b) for references to an arbitrator there shall be substituted references to an arbiter; and
 - (c) at the end of subsection (5) of this section there shall be added the words " and the use of any of the land comprised in the authorisation for the authorised purposes shall not be a use for the purpose of which the landlord shall be entitled to resume the land ".

15 Suspension of certain public rights of way

- (1) Where an application is made to the Minister for an authorisation under section one of this Act, and over any part of the land described in the application as land which

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the Board will require to occupy there subsists a public right of way, not being a right enjoyable by vehicular traffic, the provisions of section three of the Acquisition of Land Act (which relates to the extinguishment of such public rights of way over land acquired) shall apply in relation to that right of way, subject to the modifications specified in the following provisions of this section.

(2) For the purposes of the application of that section in accordance with the preceding subsection—

- (a) any reference to the extinguishment of a public right of way by an order under that section shall be construed as a reference to the suspension of a public right of way by such an order while the order remains in force;
- (b) any reference to the Minister of Housing and Local Government shall be construed as a reference to the Minister;
- (c) any reference to the provision of a suitable alternative right of way shall be construed as a reference to the making of a suitable alternative way available for use by the public during the period for which the order under that section remains in force ;
- (d) any reference to the acquiring authority shall be construed as a reference to the Board ;
- (e) any reference to land acquired or proposed to be acquired as mentioned in subsection (1) of that section shall be construed as a reference to land described in the application as mentioned in subsection (1) of this section.

(3) The Minister shall not make an order suspending a right of way under the said section three as applied by this section unless he has granted an authorisation under section one of this Act comprising the land over which the right of way subsists:

Provided that this subsection shall not prevent any steps preparatory to the making of such an order from being taken at any time after an application for the authorisation has been made and before it is granted.

(4) An order made under the said section three as applied by this section may suspend the right of way in question as from such time (not being earlier than the making of the order) as may be specified in the order, and accordingly sub-paragraphs (i) to (iii) of subsection (1) of that section, and the proviso to that subsection, shall not apply; but, where such an order has been made in connection with an authorisation under section one of this Act, the Minister shall revoke the order—

- (a) if no authorised operations have been carried out in pursuance of that authorisation, and the Minister is satisfied that there is no early prospect of their being carried out, or
- (b) as soon after such operations have been carried out as he is satisfied that it is no longer necessary for the fulfilment of the authorised purposes that the right of way should be suspended.

(5) An order made in respect of a right of way under the said section three as applied by this section shall include such provisions as may appear to the Minister 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 in accordance with the provisions of subsection (3) of the said section three as applied by this section a public local inquiry is to be held, and in accordance with the provisions of the First Schedule to this Act a public local inquiry is to be held with respect to the relevant application for an authorisation under section one of this Act, the Minister may direct that those inquiries (including, in a case falling within

paragraph 6 of that Schedule, any inquiry relating to a compulsory rights order on which proceedings are to be taken concurrently with the proceedings relating to the application for an authorisation) shall be held concurrently.

- (7) Where the Minister makes an order under the said section three, as applied by this section, in respect of a public right of way over any land, and grants an authorisation under section one of this Act in respect of that land, and the order is expressed to be made on the footing that a suitable alternative way will be made available by the Board (whether on land comprised in the authorisation or on other land) for use by the public during the period for which the order remains in force.—
- (a) the order may provide that, in so far as the carrying out of any operations, or any change in the use of land, involved in making that alternative way so available, or in permitting it to be used by the public, constitutes development within the meaning of the Act of 1947, 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 an order includes provisions in accordance with the preceding paragraph, subsection (3) of section two of this Act shall apply in relation to those provisions as it applies in relation to directions given under that section;
 - (c) if a compulsory rights order referring to that authorisation is made, then, in the application to that order of subsection (5) of section five of this Act, the authorised purposes shall be taken to include the purpose of making an alternative way available for use by the public on land comprised in the order, 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;
 - (d) if the land on which the alternative way is to be made available is specified in the order made under the said section three, as applied by this section, and is land which does not form part of, but is contiguous with, the land comprised in the authorisation, a compulsory rights order referring to that authorisation may include that land as if it were part of the land comprised in the authorisation.
- (8) In the application of this section to Scotland, for references to section three of the Acquisition of Land Act there shall be substituted references to section three of the Scottish Acquisition of Land Act, for references to the Act of 1947 and to Part III of that Act there shall be substituted respectively references to the Scottish Act of 1947 and to Part II of that Act, and for the reference to the Minister of Housing and Local Government there shall be substituted a reference to the Secretary of State.

16 Acquisition of rights for purposes of drainage or water supply

- (1) For the purpose of draining land which is or has been comprised in an authorisation under section one of this Act, the Minister may authorise the Board 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 which is or has been comprised in an authorisation under section one of this Act, the Minister may authorise the Board 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.

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- (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 comprised in the relevant authorisation under section one of this Act) for the benefit of which the right is to be acquired.
- (4) Any right purchased by the Board in pursuance of such an order—
 - (a) if so purchased while the Board are in occupation of the land specified in the order in accordance with the last preceding subsection, shall be exercisable by the Board, and by persons authorised by the Board, while the Board continue to be in occupation of that land;
 - (b) whether purchased while the Board are in occupation of that land or not, shall be treated for all purposes as an easement appurtenant in perpetuity to that land.
- (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 Board 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 Board in pursuance of such an order shall be recorded by the Board in the appropriate register of sasines, and on the title being so recorded the right shall be exercisable in all time coming by the Board or any other person in occupation of the land specified in the order in accordance with the last preceding subsection.”