

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Making, confirmation, validity and date of operation of orders. (See end of Document for details)*

## SCHEDULES

### SECOND SCHEDULE

#### PROCEDURE RELATING TO COMPULSORY RIGHTS ORDERS

##### PART I

*F1 Making, confirmation, validity and date of operation of orders*

###### Textual Amendments

**F1** Sch. 2 Pt. 1 repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(3), Sch. 6 Pt. I

- 1 (1) Subject to the following provisions of this Part of this Schedule, the provisions of Parts I, III and IV of the First Schedule to the Acquisition of Land Act shall apply in relation to compulsory rights orders as if, in that Schedule,—
- (a) any reference to a compulsory purchase order were a reference to a compulsory rights order;
  - (b) any reference to the acquiring authority were a reference to the [F2Corporation], and any reference to the confirming authority were a reference to the Minister; and
  - (c) any reference to authorising the compulsory purchase of land were a reference to operating so as to confer on the [F2Corporation] temporary rights of occupation and use of land.
- (2) Any modifications of particular provisions of the said First Schedule which are specified in the following paragraphs of this Part of this Schedule shall have effect, in relation to those provisions, in addition to the general modifications mentioned in the preceding sub-paragraph.

###### Textual Amendments

**F2** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- 2 Paragraph 1 of that Schedule (which relates to the general effect of the Schedule in relation to the Acquisition of Land Act) shall not apply.
- 3 (1) Sub-paragraph (1) of paragraph 3 of that Schedule shall apply with the substitution, for heads (b) and (c) of, and the proviso to, that sub-paragraph, of the following provisions:—

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- “(b) serve on the appropriate persons a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made; and
- (c) affix conspicuously to some conspicuous object or objects on the land comprised in the order a notice or notices containing the particulars specified in head (b) or this sub-paragraph”.

- (2) For the purposes of the provisions of sub-paragraph (1) of the said paragraph 3, as modified by the preceding sub-paragraph, the appropriate persons, in relation to a compulsory rights order, shall be taken to be all persons who, at the time when notice of the order is first published in accordance with those provisions, are known to the [F3Corporation] to be persons directly concerned.

#### Textual Amendments

**F3** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- 4 Paragraph 4 of the said First Schedule shall apply as if, for any reference to any such owner, lessee or occupier as is therein mentioned, there were substituted a reference to any person who, in relation to the order, is a person directly concerned.
- 5 (1) Except where the Minister is proceeding concurrently with respect to an application for [F4an authorisation under section one of this Act][F4opencast planning permission] and [F5a compulsory rights order], the Minister may disregard an objection to such an order if he is satisfied that it relates to the question whether [F6an authorisation under section one of this Act should have been, or should be, granted to work the coal in question by opencastoperations][F6opencast planning permission should be granted or should have been granted]and either—
- (a) it relates exclusively to that question, or
  - (b) in so far as it relates to other matters, they consist entirely of matters which can be dealt with in the assessment of compensation.
- (2) The preceding sub-paragraph shall have effect without prejudice to the operation of sub-paragraph (4) of paragraph 4 of the said First Schedule (whereby objectors can be required to give reasons, and objections relating exclusively to matters of compensation can be disregarded).

#### Textual Amendments

**F4** Words substituted (S.) by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), Sch. 8 para. 15(a)

**F5** Words substituted by Coal Industry Act 1975 (c. 56), Sch. 3 para. 10

**F6** Words substituted (S.) by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), Sch. 8 para. 15(b)

- 6 Paragraph 10 of the said First Schedule shall apply as if the references to the preparation of an order, and to the making of an order, were omitted.
- 7 In paragraph 11 of the said First Schedule (which relates to land forming part of a common, open space or fuel or field garden allotment)—

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- (a) any reference to giving other land in exchange shall be construed as a reference to making other land available during the period for which the compulsory rights order is to have effect;
- (b) the provisions of that paragraph as to the vesting of land, and to its being made subject to the like rights, trusts and incidents as the land purchased, shall apply with the necessary modifications; and
- (c) the provision contained in the said paragraph 11 for discharging land from rights, trusts and incidents to which it was previously subject shall not apply.

- 8 Paragraph 13 of the said First Schedule shall apply with the substitution, for the reference to the local authority or Minister by whom the order was submitted or prepared, of a reference to the [<sup>F7</sup>Corporation].

#### Textual Amendments

**F7** Word substituted by 1987 c. 3, s. 1(2), SCh. 1 para. 7(c)

- 9 In Paragraph 15 of the said First Schedule, the first reference to the Acquisition of Land Act shall be construed as a reference to this Act, and the second reference to that Act shall be construed as including a reference to this Act.
- 10 Paragraph 16 of the said First Schedule shall apply subject to the modification that the date on which the order becomes operative shall be the date mentioned in that paragraph or such later date (not being later than one year after the confirmation of the order) as may be determined by the Minister and specified in the order as confirmed.
- 11 In the application of the said First Schedule to compulsory rights orders “prescribed” means prescribed by regulations under this Act.
- 12 In the application of this Part of this Schedule to Scotland, for references to the Acquisition of Land Act, to sub-paragraph (1) of paragraph 3 of the First Schedule to that Act, and to heads (b) and (c) of, and the proviso to, that sub-paragraph, there shall be substituted respectively references to the Scottish Acquisition of Land Act, to paragraph 3 of the First Schedule to that Act, and to sub-paragraph (b) of that paragraph; and the First Schedule to that Act shall apply as if, in paragraph 15, sub-paragraph (2) were omitted.

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