

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Provisions as to minerals. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>TENTH SCHEDULE

#### TRANSITIONAL PROVISIONS

##### Textual Amendments

**F1** Sch. 10 repealed by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**

##### Modifications etc. (not altering text)

**C1** “The Minister” means Minister of Power whose functions are now exercisable by Secretary of State: **S.I. 1969/1498, art. 2(1)** and 1970/1537, art. 2(2)

#### PART II

##### OPENCAST SITES

###### *Provisions as to minerals*

- <sup>F133</sup> (1) The powers conferred by Regulation fifty-one A of the Defence (General) Regulations, 1939, shall not be exercisable for the purpose of the working of minerals on any land which is for the time being comprised in a compulsory rights order which has become operative.
- (2) The preceding sub-paragraph shall have effect without prejudice to the provisions of Part IV of this Schedule as to the temporary stopping up of highways.

##### Textual Amendments

**F1** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; **S.I. 1987/1939, arts. 1, 2**

- <sup>F234</sup> In respect of any land requisitioned for opencast operations—
- (a) the provisions (where applicable) of the Fifth Schedule to this Act, other than paragraphs 7 to 10, paragraph 13 and sub-paragraphs (3) to (5) of paragraph 14 of that Schedule, and the provisions (where applicable) of Part IV of the Seventh Schedule to this Act, shall apply in relation to any time after the commencement of this Act and before the terminal date as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land, and
- (b) the provisions of paragraphs (3) to (5) of the said Regulation fifty-one A shall not apply in relation to any such time.

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#### Textual Amendments

**F2** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F3</sup>35 Where after the commencement of this Act possession of any land ceases to be retained in the exercise of emergency powers by reason of the coming into operation of a compulsory rights order comprising that land—
- (a) no sum shall be payable in respect of that land by virtue of paragraph (6) of the said Regulation fifty-one A, but
  - (b) the provisions (where applicable) of the Fifth Schedule to this Act, other than paragraphs 3 to 6, paragraph 12 and sub-paragraph (2) of paragraph 14 of that Schedule, shall apply in relation to that land as if any reference in those provisions to the operative date or to the date of entry were a reference to the date of requisition of the land.

#### Textual Amendments

**F3** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F4</sup>36 Where after the commencement of this Act—
- (a) possession of any land ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land, and
  - (b) immediately before the time when possession of that land ceases to be so retained, the land was land requisitioned for opencast operations,
- no sum shall be payable in respect of that land by virtue of paragraph (6) of the said Regulation fifty-one A, but the provisions (where applicable) of the Fifth Schedule to this Act (with the exceptions specified in the last preceding paragraph) shall apply as if the land had been comprised in a compulsory rights order under which the period of occupation came to an end on the terminal date.

#### Textual Amendments

**F4** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F5</sup>37 (1) Where at the commencement of this Act—
- (a) any land already requisitioned for opencast operations is land which, if it were comprised in a compulsory rights order which became operative immediately after the commencement of this Act, would (within the meaning of the Fifth Schedule to this Act) be land to which that Schedule applies, and
  - (b) in respect of that land any sum has been paid (whether by the Minister or by the [<sup>F6</sup>Corporation]) on account of any prospective right to compensation under the said Regulation fifty-one A,
- the Minister shall, as soon as may be after the commencement of this Act, issue a certificate specifying the amount and date of payment of that sum and the person to whom it was paid.
- (2) Any certificate required to be issued in respect of any land in accordance with the preceding sub-paragraph shall be served on any person who, at the date of issue of the certificate, would (within the meaning of the Fifth Schedule to this Act) be

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the mineral operator in relation to that land if the land were comprised in such a compulsory rights order as is mentioned in the preceding sub-paragraph.

- (3) The Minister shall serve on the [<sup>F6</sup>Corporation] a copy of any certificate issued under this paragraph.

**Textual Amendments**

- F5** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2  
**F6** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- <sup>F738</sup> (1) The provisions of this paragraph shall have effect with respect to any sum specified in a certificate issued under the last preceding paragraph.
- (2) So much (if any) of that sum as was paid in respect of compensation which (apart from paragraph 34 of this Schedule) would have accrued due after the commencement of this Act under paragraph (4) or paragraph (5) of the said Regulation fifty-one A shall be set off against any compensation becoming payable, in respect of any of the land to which the certificate relates, under paragraph 4 or paragraph 5 of the Fifth Schedule to this Act.
- (3) So much (if any) of that sum as was paid in respect of a prospective right to compensation under paragraph (6) or paragraph (7) of the said Regulation fifty-one A shall be set off against any compensation which may become payable by virtue of the operation, in relation to any of the land to which the certificate relates, of any provisions of the Fifth Schedule to this Act in accordance with paragraph 35 or paragraph 36 of this Schedule.
- (4) For the avoidance of doubt it is hereby declared that subsection (3) of section forty of this Act applies to any dispute about what proportion of any sum specified in such a certificate was paid as mentioned in sub-paragraph (2) or sub-paragraph (3) of this paragraph.

**Textual Amendments**

- F7** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

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