



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

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, [^{F1}the person entitled to the rights conferred by the order] 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, [^{F2}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 [^{F3}water authority] or other drainage authority and used by that authority][^{F2}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, [^{F4}the person who served the notice] 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.

[^{F5}(2A) Where the person who has served a notice under subsection (1) of this section ceases, without exercising any power under subsection (2) of this section, to be the person entitled to the rights under the compulsory rights order, that notice shall cease to have effect for the purposes of this section.]

Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 12. (See end of Document for details)

- (3) Where [^{F6}any person causes] a chattel to be removed under [^{F7}subsection (2) of this section], [^{F6}that person] may dispose of the chattel, by sale, destruction or otherwise, as [^{F6}that person] 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 [^{F6}the person who caused the chattel to be removed] 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, [^{F8}the person who makes the sale] 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 [^{F8}the person who makes the sale] for those proceeds.
- (5) In this section “chattel” includes apparatus of any description, whether above or below the surface of the land.

Textual Amendments

- F1** Words in s. 12(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 8(1)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F2** 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)
- F3** Words substituted by virtue of Water Act 1973 (c. 37), **s. 9**
- F4** Words in s. 12(2) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 8(2)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F5** S. 12(2A) inserted (31.10.1994) by 1994 c. 21, s. 52(2), **Sch. 8 para. 8(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F6** Words in s. 12(3) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 8(1)(2)(4)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F7** Words in s. 12(3) substituted (31.10.1994) by 1994 c. 21, s. 52(2), **Sch. 8 para. 8(4)(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F8** Words in s. 12(4) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 8(5)** (with s. 40(7)); S.I. 1994/1553, **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 12.