



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

### 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 . . . <sup>F1</sup> 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 [<sup>F2</sup>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, [<sup>F3</sup>or of the body carrying on a sewerage undertaking or sewage disposal undertaking, or of any [<sup>F4</sup>water authority] or other drainage authority][<sup>F3</sup>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 [<sup>F5</sup>opencast planning permission] referred to in the order, [<sup>F6</sup>the person entitled to the rights conferred by the compulsory rights order has] been entitled to serve a notice [<sup>F7</sup>under the provisions of the Act of 1990, applied] by section thirteen of this Act.
- (3) . . . <sup>F1</sup> the said rights also include the following:—

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*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 7. (See end of Document for details)*

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- (a) the rights conferred by any agreement [<sup>F8</sup>to which the person entitled to the rights conferred by the compulsory rights order is or is deemed to be a party and which is] for the time being in force whereby (apart from this Act) [<sup>F8</sup>that person is] 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, . . . <sup>F1</sup>
- (6) Without prejudice to the preceding provisions of this section, nothing in section five . . . <sup>F1</sup> 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, . . . <sup>F1</sup> 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.
- [<sup>F9</sup>(8) In this section—
- “ statutory water undertakers ” means—
    - (i) in England <sup>F10</sup> . . . , the [<sup>F11</sup>Environment Agency], a water undertaker or a sewerage undertaker; <sup>F12</sup> . . .
    - (ii) in Scotland, a [<sup>F13</sup>Scottish Water][<sup>F14</sup>and]
    - (iii) [<sup>F15</sup>in Wales, the Natural Resources Body for Wales, a water undertaker or a sewerage undertaker.]
  - “ local enactment ”—
    - (i) in England and Wales, means any local statutory provision within the meaning of the Water Industry Act 1991; and
    - (ii) in Scotland, has the same meaning as in the Water (Scotland) Act 1980;

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and, in the application of this section to Scotland, for any reference to the Act of 1990 there shall be substituted a reference to [F16the Town and Country Planning (Scotland) Act 1997].]

#### Textual Amendments

- F1** Words repealed by [Coal Industry Act 1975 \(c. 56\)](#), s. 5(3), **Sch. 5**
- F2** 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)
- F3** 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)
- F4** Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), **s. 9**
- F5** Words in s. 7(2)(c) substituted (31.10.1994) by 1994 c. 21, s. 52(2), **Sch. 8 para. 4(a)(i)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F6** Words in s. 7(2)(c) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 4(a)(ii)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F7** Words in s. 7(2)(c) substituted (31.10.1994) by 1994 c. 21, **s. 52(2)**, Sch. 8 para. 4(a)(iii) (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F8** Words in s. 7(3)(a) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 4(b)(i)(ii)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F9** S. 7(8) substituted (31.10.1994) for s. 7(8)(9) by 1994 c. 21, s. 52(2), **Sch. 8 para. 4(c)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F10** Words in s. 7(8) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 26(2)** (with Sch. 7)
- F11** Words in para. (i) of the definition of "statutory water undertakers" substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 5(1)** (with ss. 115, 117); S.I. 1996/186, **art. 2**
- F12** Word in s. 7(8) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 26(3)** (with Sch. 7)
- F13** Words in s. 7(8) substituted (14.7.2004) by [Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 1**
- F14** Word in s. 7(8) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 26(4)** (with Sch. 7)
- F15** Words in s. 7(8) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 26(5)** (with Sch. 7)
- F16** Words in s. 7(8) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 5(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 7.