



Water Act 2003

2003 CHAPTER 37

PART 3

MISCELLANEOUS

Coal mine water pollution

85 Control of water from coal mines

(1) After section 4 of the Coal Industry Act 1994 (c. 21) there is inserted—

“4A Power of the Authority with respect to coal mine water discharge

- (1) The Authority may take such action as it considers appropriate (if any) for the purpose of preventing, or mitigating the effect of, the discharge of water from a coal mine into or on to any land or into any controlled waters.
- (2) In this section and sections 4B and 4C below—
 - (a) “controlled waters” has the meaning given by section 104 of the Water Resources Act 1991; and
 - (b) references to coal mines are to coal mines vested in the Authority.

4B Coal mine water discharge: powers of entry

- (1) If the Authority is of the opinion that a discharge of water from a coal mine into or on to any land or into any controlled waters has caused, is causing or is likely to cause—
 - (a) serious pollution of the environment; or
 - (b) danger to life or health,the Authority may, for any purpose specified in subsection (2) below, in writing authorise a person to exercise, in accordance with the terms of the authorisation, any of the powers specified in subsection (3) below.

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- (2) The purposes are—
 - (a) to determine the extent of the pollution or of the danger, or the likelihood of serious pollution or such danger;
 - (b) to determine whether, and, if so, how, the Authority should exercise its power under section 4A above;
 - (c) to take action under that section.
- (3) The powers are—
 - (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, using reasonable force) any premises which the authorised person has reason to believe it is necessary for him to enter;
 - (b) to use a vehicle or a boat to do so;
 - (c) on entering any premises by virtue of paragraph (a) above, to take with him—
 - (i) any other person authorised by the Authority and, if the authorised person reasonably believes he is likely to be obstructed, a constable; and
 - (ii) any equipment or materials needed for any purpose for which the power of entry is being exercised;
 - (d) to make such examination and investigation as may in any circumstances be necessary;
 - (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above;
 - (f) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air or water or land in, on, or in the vicinity of, the premises;
 - (g) to require any person to give him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.
- (4) The powers which are conferred in relation to any land by this section include power, for the purposes mentioned in subsection (2) above—
 - (a) to carry out experimental borings or other works on those premises; and
 - (b) to install, keep or maintain monitoring and other apparatus there.
- (5) Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of this section shall only be effected—
 - (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and
 - (b) either—
 - (i) with the consent of a person who is in occupation of those premises; or

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- (ii) under the authority of a warrant by virtue of Schedule 1A to this Act.
- (6) Except in an emergency, where an authorised person proposes to enter any premises and—
 - (a) entry has been refused and he reasonably believes that the use of force may be necessary to effect entry; or
 - (b) he reasonably believes that entry is likely to be refused and that the use of force may be necessary to effect entry,
 any entry on to those premises by virtue of this section shall be effected only under the authority of a warrant by virtue of Schedule 1A to this Act.
- (7) In relation to any premises belonging to or used for the purposes of the United Kingdom Atomic Energy Authority, subsections (1) to (3) above shall have effect subject to section 6(3) of the Atomic Energy Authority Act 1954 (which restricts entry to such premises where they have been declared to be prohibited places for the purposes of the Official Secrets Act 1911).
- (8) Schedule 1A to this Act shall have effect with respect to the powers of entry and related powers which are conferred by this section.
- (9) In this section, “premises” includes any land, vehicle or vessel, and any plant which is designed to move or be moved (whether or not on roads).

4C Coal mine water discharge: compulsory purchase of land

- (1) The Authority may be authorised by the Secretary of State to purchase compulsorily any land anywhere in England and Wales where he is of the opinion that—
 - (a) the purchase is required by the Authority for the purpose of preventing, or mitigating the effect of, a discharge of water from a coal mine; and
 - (b) the discharge has caused, is causing or is likely to cause significant pollution of controlled waters or serious harm to human health.
- (2) The power of the Secretary of State under subsection (1) above shall include power—
 - (a) to authorise the acquisition of interests in, and rights over, land by the creation of new interests and rights; and
 - (b) by authorising the acquisition by the Authority of any rights over land which is to be or has been acquired by the Authority, to provide for the extinguishment of those rights.
- (3) Without prejudice to the generality of subsection (1) above, the land which the Authority may be authorised under that subsection to purchase compulsorily shall include land which is or will be required for the purpose of being given in exchange for, or for any right over, any other land which for the purposes of the Acquisition of Land Act 1981 is or forms part of a common, open space or a fuel or field garden allotment.
- (4) The Acquisition of Land Act 1981 shall apply to any compulsory purchase under subsection (1) above of any land by the Authority; and Schedule 3 to that Act shall apply to the compulsory acquisition under that subsection of rights by the creation of new rights.

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- (5) Schedule 1B to this Act shall have effect for the purpose of modifying enactments relating to compensation and the provisions of the Compulsory Purchase Act 1965 in their application in relation to the compulsory acquisition under subsection (1) above of a right over land by the creation of a new right.”
- (2) Schedules 5 and 6 (which respectively insert Schedules 1A and 1B into the Coal Industry Act 1994 (c. 21)) are to have effect.
- (3) In subsection (7) of section 68 of the Coal Industry Act 1994 (extent, etc), before paragraph (a) there is inserted—
- “(za) sections 4A to 4C and Schedules 1A and 1B;”.

Commencement Information

II [S. 85](#) in force at 1.4.2004 by [S.I. 2004/641](#), [art. 3\(w\)](#) (with [Sch. 3 para. 7](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 52(9) inserted by [2014 c. 21 Sch. 7 para. 133\(3\)](#)