



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

[^{F1}15 Suspension of certain public rights of way.

(1) Where—

- (a) [^{F2}any person applies] for opencast planning permission; and
- (b) over any part of the land to which the application relates there subsists a public right of way, not being a right enjoyed by vehicular traffic,

[^{F2}that person may also apply to the Coal Authority] for an order suspending the public right of way.

(2) The [^{F3}Coal Authority shall not make an order under this section] unless—

- (a) opencast planning permission [^{F4}has been applied for or granted]; and
- [it is satisfied that the applicant—

- ^{F5}(aa) (i) is a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to the Coal Authority for a licence under Part II of that Act is pending; and
- (ii) has complied with the requirements of section 15A of this Act before submitting the application;

and

- (b) it is also satisfied—
 - (i) that a suitable alternative way will be made available by the applicant] (whether on land comprised in the opencast planning permission or on other land) for use by the public during the period for which the order remains in force; or
 - (ii) that the provision of such an alternative way is not required.

[An order under this section—

- ^{F6}(3) (a) shall not have effect unless confirmed by the Secretary of State; and

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- (b) where it has been confirmed, shall have effect (with such modifications as the Secretary of State may in confirming it determine) so as to suspend the right of way to which it relates with effect (subject to section 15A(10) and (11) of this Act) from such date as may be determined by the Secretary of State and specified in the order as confirmed.
- (3A) Where at any time after an application for an order under this section has been made and before any order made on that application is confirmed—
- (a) any person becomes the successor of the original applicant for the order and notifies that fact—
 - (i) if no order has been made on the application, to the Coal Authority, or
 - (ii) if such an order has been made, to the Secretary of State,
 and
 - (b) the Authority or, as the case may be, the Secretary of State decides to proceed in relation to the application or order in accordance with this subsection,
- the provisions of this Act shall have effect as if the application had been made by that person, as if he had the same right to make it as the original applicant and as if anything done for the purposes of the application by or in relation to the original applicant or a previous successor had been done by or in relation to that person.
- (3B) The Coal Authority or, as the case may be, the Secretary of State may make a decision to proceed in accordance with subsection (3A) of this section subject to compliance by the successor giving the notification with such conditions as that Authority or the Secretary of State thinks fit.]
- (4) Where an order has been made under this section the Secretary of State shall revoke it—
- (a) if—
 - (i) no permitted activities have been carried on pursuant to the opencast planning permission on the land over which the right of way subsisted; and
 - (ii) he is satisfied that there is no early prospect of such activities being so carried on; or
 - (b) as soon after such permitted activities have been so carried on as he is satisfied that it is no longer necessary for the purpose of carrying on such permitted activities that the right of way should be suspended [^{F7}or]
- [^{F7}(c) he is satisfied that it is appropriate to do so on account of any failure on the part of the person on whose application the order was made to comply with any of the requirements of section 15A(10) of this Act.]
- (5) An order under this section shall [^{F8}not be made except where such conditions for the making of the order are imposed or such other provision is included in the order as may] be appropriate for securing the reconstruction of the way on the restoration of the land over which the right of way subsisted immediately before the order was made.
- [For the purposes of subsection (5) above a local planning authority may enter into an
- ^{F9}(5A) agreement with any applicant for an order under this section as to the steps to be taken by that person or any of his successors for securing the reconstruction of the way in question; and such an agreement shall have effect, so far as it relates to steps to be taken by any successor of the applicant, as if that successor had been a party to it and was bound by it to the same extent as the applicant.]

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- (6) Where an order is made under this section then, in connection with the provision of such a suitable alternative way as is referred to in subsection (2) above,—
- (a) the order under this section may provide that, in so far as the carrying out of any operation, or any change in the use of land, involved in making the alternative way available or in permitting it to be used by the public, constitutes development within the meaning of [^{F10}the Act of 1990], permission for that development shall be deemed to be granted under Part III of that Act subject to such conditions (if any) as may be specified in the order;
 - (b) where the order under this section includes provisions in accordance with paragraph (a) above, [^{F10}the Act of 1990] shall have effect as if they were conditions subject to which the opencast planning permission was granted;
 - (c) if a compulsory rights order referring to the opencast planning permission is made, then, in the application to that order of section 5(5) above, the permitted activities shall be taken to include making an alternative way available for use by the public, and the right exercisable in accordance with that subsection, as against all persons directly concerned, shall include the right to permit the public to use any way so made available; and
 - (d) if the land on which the alternative way is to be made available is specified in the order under this section and is land which does not form part of, but is contiguous with, the land to which the opencast planning permission relates, a compulsory rights order referring to the opencast planning permission may include that land as if it were part of the land comprised in the permission.
- (7) In the application of this section to Scotland, it shall be read as if for [^{F10}the Act of 1990] there were substituted [^{F11}the Act of 1997]]

Textual Amendments

- F1** For S. 15 there is substituted ss. 15, 15A by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), ss. 39(3), [Sch. 8 para. 6](#)
- F2** Words in s. 15(1) substituted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 12\(1\)\(a\)\(b\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F3** Words in s. 15(2) substituted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 12\(2\)\(a\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F4** Words in s. 15(2)(a) substituted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 12\(2\)\(b\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F5** [S. 15\(2\)\(aa\)\(b\)](#) substituted (31.10.1994) for words in s. 15(2)(b) by [1994 c. 21, s. 52, Sch. 8 para. 12\(2\)\(c\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F6** [S. 15\(3\)\(3A\)\(3B\)](#) substituted (31.10.1994) for s. 15(3) by [1994 c. 21, s. 52, Sch. 8 para. 12\(3\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F7** [S. 15](#): word and para. (4)(c) inserted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 12\(4\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F8** Words in s. 15(5) substituted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 12\(5\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F9** [S. 15\(5A\)](#) inserted (31.10.1994) by [1994 c. 21, s. 52, Sch. 8 para. 12\(6\)](#) (with s. 40(7)); [S.I. 1994/2553, art. 2](#)
- F10** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 5\(b\)](#)
- F11** Words in s. 15(7) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\), Sch. 2 para. 5\(3\)](#)

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Modifications etc. (not altering text)

C1 [S. 15](#) restricted (31.10.1994) by [1994 c. 21](#), [s. 52\(1\)\(b\)\(3\)](#) (with [s. 40\(7\)](#)); [S.I. 1994/2553](#), [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 15.