



# Coal Industry Act 1975

## 1975 CHAPTER 56

An Act to provide for grants to the National Coal<sup>[F1]</sup> Corporation] to meet expenditure under a scheme providing for compensation for pneumoconiosis; to enable the<sup>[F1]</sup> Corporation] to withdraw support to enable coal to be worked and to work coal in former copyhold land; to make further provision in relation to opencast operations; and for purposes connected therewith. [1st August 1975]

### Textual Amendments

- F1** In this Act, for the words “Board” and “Board’s” wherever they occur (except in ss. 1(4), 2(5), (6), (8), paras. 2(a) and 3(c) of Sch. 1 and in the first place they occur in s. 3(8)) there is substituted the words “Corporation” and “Corporation’s” by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(2\), Sch. 1 para. 28\(2\)](#)

### Commencement Information

- II** Act wholly in force at 1.9.1975 see [s. 8\(2\)](#)

## 1 Grants to National Coal <sup>[F2]</sup>Corporation] to meet expenditure under pneumoconiosis compensation scheme.

- (1) The Secretary of State may make, in accordance with this section, grants out of money provided by Parliament towards expenditure incurred, whether before or after the commencement of this Act, by the <sup>[F3]</sup>British Coal <sup>[F2]</sup>Corporation] (in this Act referred to as “the <sup>[F2]</sup>Corporation]”) under or for the purposes of the industry’s pneumoconiosis compensation scheme.
- (2) The total of grants under this section shall not exceed <sup>[F4]</sup>£107 million].
- (3) No grant shall be made under this section towards any expenditure incurred by the <sup>[F2]</sup>Corporation] in paying benefits under the industry’s pneumoconiosis compensation scheme to or in respect of any person unless it appears to the Secretary of State—
  - (a) that that person became entitled before 1st October 1974, in respect of pneumoconiosis contracted by him, to such other description of benefit as, in

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*Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1975. (See end of Document for details)*

accordance with the scheme, qualifies him, or any other person in respect of him, to benefit under the scheme; or

- (b) that, in a case where paragraph (a) above does not apply, pneumoconiosis contracted by that person would be treated, for the purposes of a claim to any such other description of benefit as is referred to in that paragraph, as having developed on a date before 1st October 1974.

(4) In this section “the industry’s pneumoconiosis compensation scheme” means—

- (a) the scheme set out in the Schedule to an agreement dated 13th September 1974 and made between the Board and the National Union of Mineworkers, the National Association of Colliery Overmen Deputies and Shotfirers and the British Association of Colliery Management; and
- (b) any variation of that scheme (whether operating by way of amendment or replacement of that scheme or otherwise) which is for the time being approved by the Secretary of State, with the consent of the Treasury.

#### Textual Amendments

- F2** S. 1: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).
- F3** Words substituted by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(1\)](#)
- F4** “£107 million” substituted by [Coal Industry Act 1980 \(c. 50, SIF 86\)](#), s. 8

## 2 New right of [<sup>F5</sup>Corporation] to withdraw support to enable coal to be worked.

(1) Subject to the provisions of this section and of Schedule 1 to this Act, so far as may be reasonably requisite for the working of any coal, the [<sup>F5</sup>Corporation] shall be entitled, after the expiry of the period of three months beginning on the relevant date of publication of a notice under this section, to withdraw support from any land to which the notice relates (whether the coal concerned lies under that land or under land adjacent to that land); and on and after the commencement of this Act the right conferred on the [<sup>F5</sup>Corporation] by this section shall have effect in substitution for any right to withdraw support vested in or conferred on the [<sup>F5</sup>Corporation] before that commencement under or by virtue of any other enactment.

(2) A notice under this section—

- (a) shall indicate the land to which it relates, either by reference to a map or in such other manner as appears to the [<sup>F5</sup>Corporation] to be appropriate in the circumstances of the case, and
- (b) shall state the [<sup>F5</sup>Corporation’s] intention to exercise in relation to that land the right conferred on the [<sup>F5</sup>Corporation] by this section, and
- (c) shall be published—
  - (i) in the London Gazette or, if the land to which the notice relates is situated in Scotland, in the Edinburgh Gazette; and
  - (ii) on two successive weeks in such newspapers circulating in the locality concerned as appear to the [<sup>F5</sup>Corporation] to be desirable for giving adequate publicity to the notice;

and any reference in this section to the relevant date of publication of a notice is a reference to the date on which the notice is published in accordance with sub-

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paragraph (i) or, if it is later, is first published in accordance with sub-paragraph (ii) of paragraph (c) above.

(3) Not later than the relevant date of publication of a notice under this section, the [<sup>F5</sup>Corporation] shall—

- (a) serve a copy of the notice on every local planning authority in whose area or, in Scotland, on every planning authority in whose district lies any part of the land to which the notice relates, and
- (b) post a copy or copies of the notice in some conspicuous place or places on the land to which the notice relates,

and the reference in this subsection to a local planning authority shall be construed, in relation to England and Wales, as if this subsection were included in [<sup>F6</sup>the Town and Country Planning Act 1990].

<sup>F7</sup>(4) .....

(5) In any case where, immediately before the commencement of this Act, the Board or a licensee of the Board had a right to withdraw support from any land—

- (a) by virtue of paragraph 5 of Schedule 2 to the <sup>M1</sup>Coal Act 1938 (cases where rights to withdraw support were annexed to coal or a mine of coal before the valuation date), or
- (b) by virtue of paragraph 1 of Schedule 2 to the <sup>M2</sup>Coal Act 1943 (rights to withdraw support from protected and other land originally comprised in a coal-mining lease),

the Board shall be deemed to have published, on the date on which this Act comes into operation, a notice under this section relating to that land and, in relation to the withdrawal of support from that land, subsection (1) above shall have effect with the substitution for the words “the expiry of the period of three months beginning on the relevant date of publication of” of the word “publishing” and, accordingly, subsections (2)(c) and (3) above shall not apply.

(6) In any case where, before the commencement of this Act, the Board or the Coal Commission have given public notice under paragraph 6(2) of Schedule 2 to the <sup>M3</sup>Coal Act 1938 (notice of first exercising a right to withdraw support or of granting the benefit of such a right to another person) relating to any land under which there subsists at the commencement of this Act any coal or a mine of coal, the Board shall be deemed to have published, on the date on which this Act comes into operation, a notice under this section relating to that land and, in relation to the withdrawal of support from that land, subsection (1) above shall have effect with the substitution for the words “the expiry of the period of three months beginning on the relevant date of publication of” of the word “publishing” and, accordingly, subsections (2)(c) and (3) above shall not apply.

<sup>F7</sup>(7) .....

(8) Nothing in this section shall affect—

- (a) any agreement binding on the Board immediately before the commencement of this Act, being an agreement made between the Board, the Coal Commission or a coal owner and a person interested in any land whereby the Board, the Coal Commission or the coal owner agreed not to work any coal or (as the case may be) any minerals or not to withdraw support from any land, or

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- (b) any provision contained in a coal-mining lease which is binding on the Board immediately before the commencement of this Act and which prohibits the withdrawal of support from any land specified in the lease, or
- (c) any restrictions, terms or conditions applicable to the working of any coal—
  - (i) by virtue of an agreement binding on the Board and entered into after 1st July 1942 and before the commencement of this Act, or
  - (ii) by virtue of an order made, whether before or after the commencement of this Act under section 1 or section 7 of the <sup>M4</sup>Mines (Working Facilities and Support) Act 1966, or
  - (iii) by virtue of, or of any consent in relation to a restriction imposed by, section 33 of the <sup>M5</sup>Coal Act 1938,
- (d) any such right as is referred to in section 34(1) of the Coal Act 1938 (statutory rights of the Crown, local authorities, statutory undertakers, and other persons to restrict the withdrawal of support etc.),

and in paragraph (a) above “coal owner” means the person in whom the fee simple in the coal in question was for the time being vested.

- (9) Nothing in this section shall confer on the [<sup>F5</sup>Corporation] any right to withdraw support in connection with the working of coal or mines of coal comprised in the land specified in section 43(1) of the Coal Act 1938 (land in the Forest of Dean, etc. in which the privileges of free miners are exercisable).
- (10) The following provisions of the <sup>M6</sup>Coal Act 1938 shall have effect as if the preceding provisions of this section and Schedule 1 to this Act were included in Part I of that Act, namely,—
  - (a) section 42 (application of Part I to Crown and Duchy land);
  - (b) section 44 (interpretation of Part I);
  - (c) section 45 (application of Part I to Scotland); and
  - (d) section 55 (service of notices etc.).

#### Textual Amendments

- F5** S. 2: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).
- F6** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 33](#)
- F7** S. 2(4)(7) repealed (30. 11. 1991) by [Coal Mining Subsidence Act 1991 \(c. 45\)](#), s. 53(2), [Sch.8](#) (with s. 37(4), Sch. 7); S.I. 1991/2508, [art.2](#).

#### Marginal Citations

- M1** 1938 c. 52.
- M2** 1943 c. 38.
- M3** 1938 c. 52.
- M4** 1966 c. 4.
- M5** 1938 c. 52.
- M6** 1938 c. 52.

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### **3 Right of [F<sup>8</sup>Corporation] to work coal in former copyhold land.**

- (1) Notwithstanding anything in section 5(6) of the <sup>M7</sup>Coal Act 1938 (interests of former copyholders which were preserved after enfranchisement to be retained interests) where any coal or a mine of coal vested in the [F<sup>8</sup>Corporation] is comprised in or lies under land—
  - (a) which was formerly copyhold, and
  - (b) which is comprised in an area specified in a notice under this section,the [F<sup>8</sup>Corporation] shall have the like right to work that coal or, for any coal-mining purpose, to use that mine as if they had acquired all retained interests subsisting in that coal or mine immediately before the commencement of this Act.
- (2) Before exercising their rights under subsection (1) above with respect to land in any area the [F<sup>8</sup>Corporation] shall publish notice of their intention to do so—
  - (a) in the London Gazette, and
  - (b) on two successive weeks in such newspapers circulating in the area concerned as appear to the [F<sup>8</sup>Corporation] to be desirable for giving adequate publicity to their intention.
- (3) Every notice under subsection (2) above—
  - (a) shall indicate the area of land to which it relates either by reference to a map or in such other manner as appears to the [F<sup>8</sup>Corporation] to be appropriate in the circumstances of the case;
  - (b) shall invite the owners of retained interests in coal or any mine of coal comprised in or lying under land in that area to give notice of their interests to the [F<sup>8</sup>Corporation] within the period of twelve years beginning with the date on which the notice under subsection (2) above is first published; and
  - (c) shall contain such other particulars as may be prescribed.
- (4) Where the [F<sup>8</sup>Corporation]—
  - (a) have published a notice under subsection (2) above, and
  - (b) have been given notice of a retained interest as mentioned in subsection (3) (b) above, and
  - (c) have begun to exercise the right conferred on them by subsection (1) above in relation to any coal or a mine of coal comprised in or lying under any land in which the retained interest subsists,then, in respect of that interest, the [F<sup>8</sup>Corporation] shall pay compensation calculated by reference to the consideration which, on the date on which they began to exercise the right referred to in paragraph (c) above, would have been appropriate, as between a willing grantor and a willing grantee, on a conveyance of that interest to the [F<sup>8</sup>Corporation]; and any dispute as to the amount of compensation payable by the [F<sup>8</sup>Corporation] by virtue of this subsection shall be determined by the Lands Tribunal.
- (5) Schedule 2 to this Act shall have effect for supplementing the provisions of this section.
- (6) Where compensation is payable to any person under subsection (4) above there shall be paid to him, in addition to the compensation, any reasonable valuation expenses incurred by him for the purpose of ascertaining the value, at the date referred to in subsection (4) above, of the retained interest to which the compensation relates, but this subsection is without prejudice to the powers of the Lands Tribunal in respect of the costs of proceedings before the Tribunal by virtue of subsection (4) above.

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- (7) Subject to paragraph 9 of Schedule 2 to this Act, the service of a notice under subsection (2) above shall not prevent the [F<sup>8</sup>Corporation] from acquiring by agreement any retained interest in coal or a mine of coal comprised in or lying under land in the area to which the notice relates.
- (8) If, by virtue of an order under section 1 of the M<sup>8</sup>Mines (Working Facilities and Support) Act 1966 or of any agreement, the Board are entitled immediately before the commencement of this Act to work any coal or to use any mine of coal in which a retained interest subsists at that time, then, if and so long as the [F<sup>8</sup>Corporation] continue on and after the commencement of this Act to be so entitled, nothing in the preceding provisions of this section shall apply with respect to that coal or mine of coal or to any retained interest therein; and accordingly—
- (a) in so far as any notice which is published under subsection (2) above at a time when the [F<sup>8</sup>Corporation] are so entitled specifies an area which includes the land in or under which that coal or mine of coal is comprised or lies, so much of that land as consists of that coal or mine of coal shall be deemed to be excluded from that area; and
- (b) in so far as notice of a retained interest which is given as mentioned in subsection (3)(b) above at a time when the [F<sup>8</sup>Corporation] are so entitled relates to a retained interest in any land in or under which that coal or mine of coal is comprised or lies, for the purposes of determining the amount of any compensation payable under subsection (4) above, that interest shall be treated as not subsisting in that coal or mine of coal.
- (9) In this section and Schedule 2 to this Act “prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Section 42 of the M<sup>9</sup>Coal Act 1938 (application of Part I to Crown and Duchy Land) and, except in so far as it defines “prescribed”, section 44 of that Act (interpretation of Part I) shall have effect as if the preceding provisions of this section and Schedule 2 to this Act were included in Part I of that Act.

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#### Textual Amendments

- F8** S. 3: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).
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#### Marginal Citations

- M7** 1938 c. 52.  
**M8** 1966 c. 4.  
**M9** 1938 c. 52.

## 4 Compulsory acquisition of rights over land for opencast operations.

- (1) For subsections (1) to (4) of section 4 of the M<sup>10</sup>Opencast Coal Act 1958 (which provided for the making, within the period of ten years beginning with the commencement of that Act, of compulsory rights orders known as “opencast site orders” and “storage site orders”) there shall be substituted the following subsections:
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“(1) For the purpose of facilitating the working of coal by opencast operations, the [<sup>F9</sup>Corporation] may, by means of an order (in this Act referred to as a “compulsory rights order”) made by the [<sup>F9</sup>Corporation] and confirmed by the Secretary of State, compulsorily acquire, in accordance with the following provisions of this Act, temporary rights of occupation and use of the whole or part of the land comprised in an authorisation under section 1 of this Act.

- (2) Subject to the provisions of Part III of this Act as to the variation of orders, the period for which a compulsory rights order has effect shall be a period—
- (a) beginning with the date on which the order becomes operative (in this Act referred to as “the operative date”), and
  - (b) of such duration, not exceeding twenty years, as may be specified in the order.”

(2) In consequence of the provisions of subsection (1) above, the <sup>M11</sup>Opencast Coal Act 1958 shall have effect subject to the amendments in Schedule 3 to this Act.

**Textual Amendments**

**F9** S. 4: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

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

**C1** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M10** 1958 c. 69.  
**M11** 1958 c. 69.

5 ..... <sup>F10</sup>

**Textual Amendments**

**F10** S. 5 repealed by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

**6 Additional compensation on re-occupation after opencast working.**

(1) After section 23 of the Opencast Coal Act 1958 there shall be inserted the following section:—

**“23A Additional compensation on re-occupation.**

(1) Subject to the following provisions of this section, with a view to furthering the resumption of agriculture on land formerly comprised in a compulsory rights order, a person shall be entitled to compensation by virtue of this section in respect of a holding to which section 21 of this Act applies if he is in

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occupation of the holding at the end of the period of occupation or if he enters into occupation of the holding at or after the end of that period, provided that he is occupying the holding or (as the case may be) he enters into occupation of the holding wholly or mainly for the purposes of agriculture carried on by way of a trade or business.

- (2) No compensation shall be payable to a person by virtue of this section unless he is either the person who, immediately before the operative date of the compulsory rights order, was entitled to occupy the holding (in this subsection referred to as “the original occupier”) or a person who, before the end of the period of occupation, became entitled to the relevant interest in the holding in accordance with the disposition of, the original occupier’s estate effected by his will, or the law relating to intestacy, or the combination of his will and that law.

- (3) In subsection (2) above—

“the relevant interest”, in relation to any person, means the interest by virtue of which he became entitled to occupy the holding (or would have become so entitled if the compulsory rights order had not been made); and

“will” includes a codicil.

- (4) The compensation payable in respect of a holding by virtue of this section shall be payable by the [FII Corporation] and, subject to the following provisions of this section, shall be an amount equal to the compensation payable in respect of that holding under sections 18 and 19 of this Act for the last twelve months of the period of occupation.
- (5) Subject to the following provisions of this section, in any case where the compensation last payable in respect of a holding under sections 18 and 19 was in fact payable by reference to a period of less than twelve months, the compensation payable in respect of that holding by virtue of this section shall be an amount equal to the compensation which was so payable under sections 18 and 19, multiplied by the fraction of which the numerator is 365 and the denominator is the number of days in the period by reference to which the compensation was so payable under those sections.
- (6) Where the person entitled, immediately after the end of the period of occupation, to occupy the holding concerned ceases, before he enters into occupation, to be entitled to occupy some part of it then, subject to subsection (7) below,—
- (a) his entry into occupation of the part which he remains entitled to occupy shall be treated for the purposes of subsection (1) above as entry into occupation of the holding ; but
  - (b) the compensation payable to him by virtue of this section shall be such proportion of the compensation which would have been so payable had he remained entitled to enter into occupation of the whole of the holding as is properly attributable to the part of the holding which he remains entitled to occupy.
- (7) If, immediately before the end of the period of occupation, only part of the holding concerned (in this subsection referred to as “the compensatable portion”) was comprised in the compulsory rights order and (after the end of the period of occupation) subsection (6) above applies, then—



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- (a) if the part of the holding which the person concerned ceased to be entitled to occupy comprises the whole of the compensatable portion, no compensation shall be payable to him by virtue of this section ;
  - (b) if the person concerned remains entitled to occupy the whole of the compensatable portion, the compensation so payable to him shall not be reduced under paragraph (b) of subsection (6) above ; and
  - (c) in any other case, for the purpose of determining the proportion of the compensation properly attributable to any part of the holding under paragraph (b) of subsection (6) above, the holding shall be treated as consisting of the compensatable portion only.”
- (2) In section 35 of the <sup>M12</sup>Opencast Coal Act 1958 (time when compensation accrues due) after subsection (4) there shall be inserted the following subsection:—
- “(4A) Any compensation payable under section 23A of this Act shall accrue due on the date when the person entitled to compensation enters into occupation, if after the end of the period of occupation, and at the end of the period of occupation in any other case.”
- (3) In Schedule 6 to that Act (application of compensation provisions to special cases), after paragraph 4 there shall be inserted the following paragraph—

“4A Where a compulsory rights order comprises the whole or part of a holding to which section 21 of this Act applies, and at the end of the period of occupation one person is entitled to occupy part of that holding and another person is entitled to occupy another part of that holding, each of those parts of the holding shall be treated for the purposes of section 23A of this Act as if it were a separate holding, and were a holding to which section 21 of this Act applied.”

**Textual Amendments**

**F11** S. 6: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

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

**C2** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M12** 1958 c. 69.

**7 Savings, transitional provisions and repeals.**

<sup>F12</sup>(1) .....

<sup>F12</sup>(2) .....

- (3) Nothing in this Act shall affect the operation of section 3 of—
- (a) the <sup>M13</sup>Acquisition of Land (Authorisation Procedure) Act 1946, or

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(b) the <sup>M14</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, in any case where an order under that section was made, or notice of such an order was published, before the commencement of this Act.

(4) The enactments specified in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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**Textual Amendments**

**F12** S. 7(1)(2) repealed (30. 11. 1991) by [Coal Mining Subsidence Act 1991 \(c. 45\)](#), s. 53(2), [Sch.8](#) (with s. 37(4), [Sch. 7](#)); [S.I. 1991/2508](#), [art.2](#).

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

**C3** The text of s. 7(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

**M13** [1946 c. 49](#).

**M14** [1947 c. 42](#).

**8 Short title, commencement and extent.**

- (1) This Act may be cited as the Coal Industry Act 1975.
- (2) This Act shall come into operation at the expiry of the period of one month beginning with the day on which it is passed.
- (3) Section 3 of this Act does not extend to Scotland.
- (4) This Act does not extend to Northern Ireland.

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## SCHEDULES

### SCHEDULE 1

Section 2.

#### SUPPLEMENTARY PROVISIONS RELATING TO RIGHT TO WITHDRAW SUPPORT

F13<sub>1</sub> .....

##### Textual Amendments

**F13** Sch. 1 paras. 1-4 repealed (30. 11. 1991) by Coal Mining Subsidence Act 1991 (c. 45), s. 53(2), **Sch.8** (with s. 37(4), Sch. 7); S.I. 1991/2508, **art.2**.

F14<sub>2</sub> .....

##### Textual Amendments

**F14** Sch. 1 paras. 1-4 repealed (30. 11. 1991) by Coal Mining Subsidence Act 1991 (c. 45), s. 53(2), **Sch.8** (with s. 37(4), Sch. 7); S.I. 1991/2508, **art.2**.

F15<sub>3</sub> .....

##### Textual Amendments

**F15** Sch. 1 paras. 1-4 repealed (30. 11. 1991) by Coal Mining Subsidence Act 1991 (c. 45), s. 53(2), **Sch.8** (with s. 37(4), Sch. 7); S.I. 1991/2508, **art.2**.

F16<sub>4</sub> .....

##### Textual Amendments

**F16** Sch. 1 paras. 1-4 repealed (30. 11. 1991) by Coal Mining Subsidence Act 1991 (c. 45), s. 53(2), **Sch.8** (with s. 37(4), Sch. 7); S.I. 1991/2508, **art.2**.

- 5 (1) Subject to sub-paragraph (2) below, on an application under section 7 of the <sup>M15</sup>Mines (Working Facilities and Support) Act 1966 (imposition of restrictions on the working of minerals where a person having an interest in land is not entitled to support or to sufficient support for buildings or works), the applicant shall not be required to pay or give any compensation or consideration in respect of the imposition of restrictions appearing to the court to be justified by the existence of the right to withdraw support conferred on the [<sup>F17</sup>Corporation] by section 2 of this Act.
- (2) Sub-paragraph (1) above shall not apply in any case falling within subsection (5)(a) of section 2 of this Act and shall not apply in any other case, other than one falling within subsection (5)(b) of that section, unless the application is sent to the Secretary

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of State before the end of the period of six months beginning with the date of the first publication of a notice under that section relating to the land to which the application relates or, in a case falling within subsection (6) of that section, the first publication of the notice under paragraph 6 of Schedule 2 to the <sup>M16</sup>Coal Act 1938 referred to in that subsection.

- (3) Notwithstanding anything in section 12 of the <sup>M17</sup>Mines (Working Facilities and Support) Act 1966, restrictions the imposition of which appears to the court to be justified as mentioned in sub-paragraph (1) above may be imposed under section 7 of that Act on the application of, and so as to vest the right to enforce the restrictions in, any such company, authority or body as is mentioned in section 12; and such restrictions may be so imposed on the application of, and so as to vest the right to enforce the restrictions in, any company or other body or person carrying on an undertaking primarily for the supply of gas, electricity, water or hydraulic power for public purposes or to members of the public.

#### Textual Amendments

- F17** Sch. 1 para. 5: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

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

- C4** Sch. 1 para. 5(3) amended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), [Sch. 7 para. 22](#)  
**C5** Sch. 1 para. 5(3) amended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 50](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 16(2), 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1), 17, 40(4), 57(6), 58)

#### Marginal Citations

- M15** 1966 c. 4.  
**M16** 1938 c. 52.  
**M17** 1966 c. 4.

## SCHEDULE 2

Section 3.

### RETAINED INTERESTS: NOTICES AND COMPENSATION

- 1 The provisions of this Schedule apply where a person (in this Schedule referred to as “the claimant”) gives to the [<sup>F18</sup>Corporation] notice of a retained interest as mentioned in section 3(3)(b) of this Act (in this Schedule referred to as a “retained interest notice”).

#### Textual Amendments

- F18** Sch. 2 para. 1: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

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- 2 (1) Together with a retained interest notice given by him to the [F19Corporation] the claimant shall furnish to the [F19Corporation] adequate proof of his title to the interest at the time the notice is given.
- (2) Within the period of three months beginning on the date on which the [F19Corporation] receive a retained interest notice or within such longer period as may be agreed between the [F19Corporation] and the claimant the [F19Corporation] shall serve on the claimant either—
  - (a) a notice in the prescribed form accepting his title to the retained interest and acknowledging the obligation of the [F19Corporation] to pay compensation in respect of it under section 3 of this Act; or
  - (b) a notice rejecting the claimant's retained interest notice;and in this Schedule a notice under paragraph (a) above is referred to as an "acceptance notice" and a notice under paragraph (b) above is referred to as a "rejection notice".
- (3) A rejection notice shall specify the ground or grounds on which the [F19Corporation] reject the claimant's retained interest notice.

#### Textual Amendments

**F19** Sch. 2 para. 2: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

- 3 Subject to paragraph 5 below, as soon as practicable after the [F20Corporation] have served an acceptance notice on a claimant, the [F20Corporation] shall pay to the claimant any reasonable legal expenses incurred by him for the purposes of—
  - (a) establishing his ownership of the retained interest to which the acceptance notice relates; and
  - (b) giving the retained interest notice by virtue of which the acceptance notice came to be served.

#### Textual Amendments

**F20** Sch. 2 para. 3: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

- 4 Subject to paragraph 5 below, where, after the receipt of a retained interest notice, the [F21Corporation] have served an acceptance notice in respect of the retained interest concerned, the service of that acceptance notice shall be a valid ground for the service of a rejection notice in respect of any other retained interest notice received by the [F21Corporation] after the first-mentioned notice and relating to any of the land in which subsists the retained interest in respect of which the acceptance notice was served.

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### Textual Amendments

**F21** Sch. 1 para. 4: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

- 5 (1) A claimant who—
- (a) has served a retained interest notice relating to any land (in this paragraph referred to as “the relevant land”); and
  - (b) is aggrieved by the service on him of a rejection notice relating to his retained interest notice, other than a rejection notice served pursuant to an order under this paragraph,
- may, within the period of 3 months beginning on the date of service of the rejection notice make an application to the county court for an order directing the [F<sup>22</sup>Corporation] to withdraw the rejection notice and to serve an acceptance notice in respect of the retained interest which he claims.
- (2) On an application under this paragraph, the court may direct that, in addition to the applicant and the [F<sup>22</sup>Corporation], any other person who has given a retained interest notice relating to the whole or part of any of the relevant land shall be made a party to the application unless—
- (a) the [F<sup>22</sup>Corporation] have already served a rejection notice in respect of that person’s retained interest notice; and
  - (b) the time within which he might have made an application under this paragraph in respect of that rejection notice has expired without such an application having been made.
- (3) On an application under this paragraph the court shall determine whether—
- (a) the applicant, or
  - (b) any other party to the application who contests the applicant’s claim, or
  - (c) any other person (whether a party to the application or not) on whom the [F<sup>22</sup>Corporation] have served an acceptance notice relating to the whole or any part of the relevant land,
- was at the time he gave his retained interest notice entitled to a retained interest in the whole or any part of the relevant land and shall order the [F<sup>22</sup>Corporation] (so far as they have not already done so) to serve an acceptance notice on that person or, if more than one of them were so entitled to a retained interest in the same piece of land, on that one of them whose retained interest notice was given first.
- (4) An order under sub-paragraph (3) above may contain such provisions as the court considers appropriate to secure—
- (a) that a rejection notice is or has been served on every party to the application (other than the [F<sup>22</sup>Corporation]) on whom an acceptance notice is not ordered to be or has not been served; and
  - (b) that, where it appears to the court that an acceptance notice has been served which should not have been served, that notice is cancelled and that the [F<sup>22</sup>Corporation] bring the cancellation to the notice of the person who, if the notice had not been cancelled, would for the time being have been entitled to

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receive compensation under section 3(4) of this Act in respect of the interest to which the acceptance notice related.

- (5) If, in accordance with sub-paragraph (4) above, the court orders the cancellation of an acceptance notice, it shall be conclusively presumed for the purposes of section 3 of this Act and of the provisions of this Schedule other than this paragraph—
- (a) that the person on whom the acceptance notice was served did not have a retained interest in the relevant land at the time he served his retained interest notice; and
  - (b) that the [F22Corporation] served a rejection notice in respect of that retained interest notice.
- (6) Nothing in paragraph 3 above shall affect the power of the court on an application under this paragraph (or in any subsequent proceedings) to make such order as to costs as it thinks fit; and any such order may make such modifications, if any, of the [F22Corporation's] obligation under paragraph 3 above as appear to the court to be just in the light of the other provisions as to costs contained in the order.

#### Textual Amendments

**F22** Sch. 2 para. 5: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" or "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(2\)](#), [Sch. 1 para. 28\(2\)](#).

- 6 The person having the right to receive compensation under section 3(4) of this Act in respect of a retained interest to which an acceptance notice relates shall be the person on whom that notice was served, notwithstanding that he may not own the retained interest at the time when the compensation becomes payable and, accordingly, that right shall devolve on his death and may be assigned in like manner as the right of a creditor under an unsecured debt.
- 7 Notwithstanding anything in paragraph 6 above if, at the time at which compensation becomes payable in respect of a retained interest, the [F23Corporation] pay compensation in good faith to the person who produces the acceptance notice relating to that interest, the surrender of that notice to the [F23Corporation] by way of receipt for the compensation shall constitute an adequate discharge to the [F23Corporation] of their liability to pay that compensation, without any further proof that the person producing the acceptance notice is entitled in accordance with paragraph 6 above to receive the compensation.

#### Textual Amendments

**F23** Sch. 2 para. 7: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" and "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(2\)](#), [Sch. 1 para. 28\(2\)](#).

- 8 If at any time—

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- (a) after the [<sup>F24</sup>Corporation] have served an acceptance notice in respect of a retained interest, and
- (b) before the date on which compensation becomes payable in respect of that interest,

the [<sup>F24</sup>Corporation] enter into an agreement in that behalf with the person who for the time being has the right to receive any such compensation, then, on payment to that person of such consideration as may be agreed, the [<sup>F24</sup>Corporation] shall be relieved of any contingent liability under subsection (4) or subsection (6) of section 3 of this Act in respect of that retained interest; and where any such agreement is entered into, paragraph 7 above shall apply in relation to the payment of the consideration agreed as it applies in relation to a payment of compensation at the time referred to in that paragraph.

#### Textual Amendments

**F24** Sch. 2 para. 8: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" and "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(2\)](#), [Sch. 1 para. 28\(2\)](#).

- 9 Without prejudice to paragraph 8 above, at any time after the [<sup>F25</sup>Corporation] have served an acceptance notice in respect of a retained interest, they shall cease to be entitled to acquire by agreement that interest or any other retained interest in coal or a mine of coal comprised in or lying under any of the land in which subsists the retained interest to which the acceptance notice relates.

#### Textual Amendments

**F25** Sch. 2 para. 9: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" and "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\), s. 1\(2\)](#), [Sch. 1 para. 28\(2\)](#).

- 10 (1) The [<sup>F26</sup>Corporation] shall keep, at such places as may be prescribed, a record of—
- (a) all retained interest notices given to the [<sup>F26</sup>Corporation] and all acceptance notices and rejection notices served by them, and
  - (b) all sums paid by way of compensation under section 3(4) of this Act,
- and that record shall contain a description of the land in which subsists the retained interest (or in the case of a rejection notice, the claimed retained interest) to which each such notice or payment relates sufficient to enable the land to be identified.
- (2) The record kept under this paragraph shall be open to public inspection at all reasonable hours, and different places may be prescribed for the keeping of the record relating to retained interests in different areas.



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**Textual Amendments**

- F26** Sch. 2 para. 10: for "Board" and "Board's" wherever they occur in the Act (with specified exceptions) there is substituted "Corporation" and "Corporation's" by [Coal Industry Act 1987 \(c. 3, SIF 86\)](#), s. 1(2), [Sch. 1 para. 28\(2\)](#).

- 11 Section 55 of the <sup>M18</sup>Coal Act 1938 (service of notices, etc.) shall have effect as if the provisions of this Schedule were included in that Act.

**Marginal Citations**

- M18** 1938 c. 52.

SCHEDULE 3

Section 4.

AMENDMENTS OF <sup>M19</sup>OPENCAST COAL ACT 1958 CONSEQUENTIAL ON SECTION 4

**Marginal Citations**

- M19** 1958 c. 69.

- 1 In section 4(6) the words “being an opencast site order” shall be omitted.

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

- C6** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 2 In section 5 for the words “an opencast site order”, in each place where they occur, there shall be substituted the words “a compulsory rights order”.

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

- C7** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 3 ..... **F27**

**Textual Amendments**

- F27** Sch. 3 para. 3 repealed by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

- 4 (1) In section 7, in subsection (1) the words “or in accordance with subsection (3) of section six of this Act” shall be omitted.

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- (2) In subsection (3) of that section the words “In relation to an opencast site order” shall be omitted.
- (3) In subsection (5) of that section the words from “or of” to the end of the subsection shall be omitted.
- (4) In subsection (6) of that section the words “or section six of this Act” shall be omitted.
- (5) In subsection (7) of that section the words “or in subsection (4) of section six of this Act” shall be omitted.

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

**C8** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 5 (1) In section 8, in subsection (1) the words “(whether it is an opencast site order or a storage site order)” shall be omitted.
- (2) In subsection (3)(b) of that section the words “or subsection (2) of section six of this Act, as the case may be” shall be omitted.

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

**C9** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 6 In section 9 for the words “an opencast site order”, in each place where they occur, there shall be substituted the words “a compulsory rights order”.

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

**C10** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 7 In section 36, in subsection (2) for the words “an opencast site order”, in the first place where they occur, there shall be substituted the words “any compulsory rights order” and the words “opencast site”, where they occur in the proviso to the subsection, shall be omitted.

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

**C11** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 8 In section 49, for the proviso to subsection (5) there shall be substituted the following proviso:—

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“Provided that where the period specified in the order is less than twenty years, this subsection shall not prevent the variation of the order by the extension of that period, if the period as extended does not exceed twenty years”.

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

**C12** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

9 In section 51(1) the definitions of “opencast site order” and “storage site order” shall be omitted and in each of the definitions of “period of occupation” and “persons directly concerned” for the words following “assigned to it” there shall be substituted the words “by section 5 of this Act”.

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

**C13** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

[<sup>F28</sup>10 In paragraph 5(1) of Schedule 2, for the words “an opencast site order” there shall be substituted the words “a compulsory rights order”.]

**Textual Amendments**

**F28** Sch. 3 para. 10 repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, Sch. 6 Pt. I

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

**C14** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

11 ..... <sup>F29</sup>

**Textual Amendments**

**F29** Sch. 3 para. 11 repealed by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(4), Sch. 12 Pt. II

<sup>F30</sup><sup>F30</sup>SCHEDULE 4

**Textual Amendments**

**F30** Sch. 4 repealed by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(4), Sch. 12 Pt. II

..... <sup>F30</sup>

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## SCHEDULE 5

section 7(4).

## ENACTMENTS REPEALED

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

**C15** The text of ss. 4(1)(2), 6(1)—(3), 7(4), Sch. 3 paras. 1, 2, 4(1)—(5), 5(1)(2), 6—10, Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1 & 2 Geo. 6. c. 52.	The Coal Act 1938.	In Schedule 2, Part II and, in Part III, paragraph 8(c).
6 & 7 Geo. 6. c.38.	The Coal Act 1943.	Section 11. Schedule 2.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	In section 3, subsections (2) and (3) so far as not otherwise repealed.
6 & 7 Eliz. 2. c. 69.	The Opencast Coal Act 1958.	In section 4(6) the words “being an opencast site order”. Section 6. In section 7, in subsection (1), the words “or in accordance with subsection (3) of section six of this Act”; in subsection (3), the words “In relation to an opencast site order”; in subsection (5), the words from “or of” to the end of the subsection; in subsection (6), the words “or section six of this Act”; and in subsection (7), the words “or in subsection (4) of section six of this Act”. In section 8, in subsection (1), the words “(whether it is an opencast site order or a storage site order)”; and in subsection (3)(b) the words “or subsection (2) of section six of this Act, as the case may be”.

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		In section 36(2), the words “opencast site”, where they occur in the proviso to the subsection.
		In section 45, in subsection (3), the words “section three of the Acquisition of Land Act, as applied by”; and subsection (5).
		In section 51(1) the definitions of “opencast site order” and “storage site order”.
		In Schedule 10, paragraph 12.
1968 c. 41.	The Countryside Act 1968.	In Schedule 3, in Part I, paragraph 3 of the provisions relating to the Acquisition of Land (Authorisation Procedure) Act 1946.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 3, paragraph 8(c).

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**Changes to legislation:**

There are currently no known outstanding effects for the Coal Industry Act 1975.