



Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

4 Compulsory rights orders.

[^{F1}(1) For the purpose of facilitating the working of coal by opencast operations, [^{F2}the Coal Authority], by means of an order (in this Act referred to as a “compulsory rights order”) made by [^{F2}the Coal Authority] and confirmed by the Secretary of State, [^{F3}confer], in accordance with the following provisions of this Part of this Act, temporary rights of occupation and use of [^{F4}the whole, or such part as (subject to the confirmation of the Secretary of State) the Coal Authority thinks fit, of any land on which the applicant for the order desires][^{F5} to work coal by such operations or to carry out operations incidental to such working.]

[The Coal Authority shall not make a compulsory rights order except on the application ^{F6}(1A) of a person who satisfies that Authority—

- (a) that he is either a licensed operator within the meaning of the Coal Industry Act 1994 or a person whose application to that Authority for a licence under Part II of that Act is pending; and
- (b) that he has served notice in the prescribed form of the application for the order on every person who is known to him to be a person who would, in relation to the order applied for, be directly concerned.

(1B) Subject to the provisions of section 5 of this Act, the rights conferred by an order made on such an application as is mentioned in subsection (1A) of this section shall be conferred on the applicant and his successors so as to be exercisable for the purposes only of—

- (a) operations which the applicant or, as the case may be, any such successor is authorised to carry out by virtue of being a licensed operator within the meaning of the Coal Industry Act 1994; and

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- (b) operations which are incidental to operations falling within paragraph (a) above (including operations carried out at times when the authorisation for the operations falling within that paragraph is not in force).]
- (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.]
- [^{F7}(4A) Parts II, III and IV of the Acquisition of Land Act 1981 shall apply to compulsory rights orders, subject to section 29 of that Act]
- [^{F8}(5) The provisions of Parts I, III and IV of the First Schedule to the [^{F9}Scottish] Acquisition of Land Act (which relate to the procedure for authorising compulsory purchases by local authorities) shall apply to compulsory rights orders, subject to the adaptations, modifications and exceptions set out in Part I of the Second Schedule to this Act.]
- [^{F10}(6) A compulsory rights order may only be made if opencast planning permission has been applied for or granted in respect of the land comprised in the order or is deemed to have been granted in respect of it.
- (6A) Where a compulsory rights order is made before opencast planning permission has been granted in respect of the land comprised in the order, the Secretary of State shall not confirm it unless such permission in respect of that land has first been granted.
- (6B) Where a compulsory rights order is made in a case where opencast planning permission has been granted or is deemed to have been granted, the order, as from the time when it is made, shall include a reference to the permission.
- (6C) If opencast planning permission is granted in respect of land comprised in a compulsory rights order and the Secretary of State subsequently confirms the order, the order as confirmed shall include a reference to the permission.
- (6D) No compulsory rights order, as confirmed, shall extend to any land which is not comprised in the permission or deemed permission referred to in the order.]
- (7) The Lands Clauses Acts [^{F11}and the Compulsory Purchase Act 1965] shall not apply to the compulsory acquisition of rights by virtue of a compulsory rights order, or to the taking or retention of possession of land in the exercise of such rights.
- ^{F12}(8)

Textual Amendments

- F1** S. 4(1)(2) substituted for s. 4(1)-(4) by Coal Industry Act 1975 (c. 56), s. 4(1)
- F2** Words in s. 4(1) substituted (31.10.1994) by 1994 c. 21, s. 52, Sch. 8 para. 2(1); S.I. 1994/2553, art. 2
- F3** Word in s. 4(1) substituted (31.10.1994) by 1994 c. 21, s. 52(2), Sch. 8 para. 2(1)(b) (with s. 40(7)); S.I. 1994/2553, art. 2
- F4** Words in s. 4(1) substituted (31.10.1994) by 1994 c. 21, s. 52(2), Sch. 8 para. 2(1)(c) (with s. 40(7)); S.I. 1994/2553, art. 2
- F5** Words substituted by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), Sch. 8 para. 2(1)
- F6** S. 4(1A)(1B) inserted (31.10.1994) by 1994 c. 21, s. 52(2), Sch. 8 para. 2(2) (with s. 40(7)); S.I. 1994/2553, art. 2
- F7** S. 4(4A) inserted by Acquisition of Land Act 1981 (c. 67 SIF 28:1), Sch. 4 para. 11(2)

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- F8** S. 4(5) repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(3), **Sch. 6 Pt. I**
- F9** Word in s. 4(5) inserted (31.10.1994) by 1994 c. 21, s. 52(2), **Sch. 8 para. 2(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F10** S. 4(6) substituted by s. 4(6)(6A)–(6D) by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(3), **Sch. 8 para. 2(2)**
- F11** Words inserted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(1), **Sch. 4 para. 11(3)**
- F12** S. 4(8) repealed (31.10.1994) by 1994 c. 21, ss. 52(2), 67, Sch. 8 para. 2(3), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, art. 2

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