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## SCHEDULES

### SCHEDULE 2 **E+W**

Section 3.

#### MINERALS

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

- C1** Sch. 2 excluded by [Water Act 1989 \(c. 15, SIF 130\)](#), **s. 159**, (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)  
Sch. 2 excluded (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), **ss.182, 225(2)** (with ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)

#### PART I **E+W**

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

- C4** Sch. 2 Pts. 1-3 applied (with modifications) (2.10.2014) by [The Clocaenog Forest Wind Farm Order 2014 \(S.I. 2014/2441\)](#), **arts. 1, 22** (with **art. 33**)

- 1 (1) A compulsory purchase order may, as respects all or any of the land to which the order relates, provide for the incorporation with the compulsory purchase order of—
- Part II of this Schedule (which re-enacts section 77 of the Railways Clauses Consolidation Act 1845), or
  - Parts II and III of this Schedule (which together re-enact sections 77 to 85 of that Act).
- (2) In this Schedule, unless the context otherwise requires—
- “mines” means mines of coal, ironstone, slate and other minerals,  
“owner”, in relation to mines or minerals, includes a lessee or occupier.
- (3) In this Schedule “underlying”, in relation to mines or minerals, means mines or minerals lying under, or within the prescribed distance from, the undertaking, and in this sub-paragraph “prescribed distance” means the distance prescribed by the compulsory purchase order, or if no distance is so prescribed, 40 yards.
- (4) In this Schedule “the undertaking” means the undertaking which the acquiring authority is authorised to carry out by the enactment under which the purchase is authorised, but the compulsory purchase order may include such modifications of references in this Schedule to the undertaking as may be specified in the order.
- (5) This Schedule has effect subject to [<sup>F1</sup>section 10(3) of the Coal Industry Act 1994] (coal not to be alienated under enactments authorising compulsory purchase of land).

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### Textual Amendments

- F1** Words in Sch. 2 para. 1(5) substituted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 27(3)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

### Modifications etc. (not altering text)

- C5** Sch. 2 para. 1(3) modified by Dartford–Thurrock Crossing Act 1988 (c. 20, SIF 59), s. 2(5), **Sch. 2 Pt. II para. 4(2)**

## PART II **E+W**

### Modifications etc. (not altering text)

- C6** Sch. 2 Pts. 2, 3 applied (with modifications) (22.3.2005) by The Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **art. 50** (with art. 51)
- C7** Sch. 2 Pts. 2, 3 applied (with modifications) (22.7.2005) by The Midland Metro (Birmingham City Centre Extension, etc.) Order 2005 (S.I. 2005/1794), arts. 1, **46(1)** (with art. 47)
- C8** Sch. 2 Pt. 2 applied (with modifications) (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 6 para. 17**
- C9** Sch. 2 Pts. 2, 3 incorporated (with modifications) (15.8.2013) by The North Blyth Biomass Power Station Order 2013 (S.I. 2013/1873), arts. 1, **14** (with art. 30)
- C10** Sch. 2 Pt. 2 incorporated (with modifications) (7.5.2014) by The National Grid (North London Reinforcement Project) Order 2014 (S.I. 2014/1052), arts. 1, **23**  
Sch. 2 Pt. 2 incorporated (with modifications) (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), **arts. 1, 40**
- C11** Sch. 2 Pt. 2 incorporated (with modifications) (29.10.2014) by The Able Marine Energy Park Development Consent Order 2014 (S.I. 2014/2935), **art. 32** (with arts. 30(4), 53)
- C12** Sch. 2 Pts. 2, 3 incorporated (with modifications) (2.2.2015) by The Northumberland County Council (A1 – South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015 (S.I. 2015/23), arts. 1, **21(1)**
- C13** Sch. 2 Pt. 2 incorporated (with modifications) (25.2.2015) by The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 (S.I. 2015/129), arts. 1, **20**
- C14** Sch. 2 Pts. 2, 3 applied by Channel Tunnel Act 1987 (c. 53, SIF 102), s. 37(2), **Sch. 5 Pt. III para. 4**
- C15** Sch. 2 Pts. 2, 3 applied (with modifications) (13.2.1992) by Severn Bridges Act 1992 (c. 3), s. 2(6), **Sch. 2 Pt. II para.3**
- C16** Sch. 2 Pt. 2 applied (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 4(2)** (with s. 61)
- C17** Sch. 2 Pts. 2, 3 applied (16.7.1992) by Cattewater Reclamation Act 1992 (c. xiv), **s. 3(3)**  
Sch. 2 Pts. 2, 3 applied (5.11.1993) by 1993 c. 42, s. 5, **Sch. 4 para. 2** (with s. 30(1), Sch. 2 para. 9).  
Sch. 2 Pt. 2 applied (28.7.1998) by 1998 c. iv, **s. 7(1)** (with s. 41)
- C18** Sch. 2 Pts. 2, 3 applied (with modifications) by Dartford-Thurrock Crossing Act 1988 (c. 20, SIF 59), s. 2(5), **Sch. 2 Pt. II para. 4(1)**  
Sch. 2 Pts. 2, 3 applied (with modifications) (3.6.1999) by S.I. 1999/1555, **art. 9**  
Sch. 2 Pt. 2 applied (with modifications) (E.) (29.3.2001) by S.I. 2001/1347, **art. 36(1)** (with arts. 15, 37, 38(2))  
Sch. 2 Pt. 2 applied (with modifications) (E.) (29.3.2001) by S.I. 2001/1348, **art. 12(1)**
- C19** Sch. 2 Pt. 2 modified (18.12.1996) by 1996 c. 61, s. 4, **Sch. 4 Pt. III para. 13**
- C20** Sch. 2 Pt. 2 applied (with modifications) (12.8.2002) by The Channel Tunnel Rail Link (Thames Tunnel Approach) Order 2002 (S.I. 2002/1943), **art. 6(2)**  
Sch. 2 Pt. 2 applied (with modifications) (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 39(1)** (with art. 38)

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- 2 (1) The acquiring authority shall not be entitled to any mines under the land comprised in the compulsory purchase order unless they have been expressly purchased, and all mines under the land shall be deemed to be excepted out of the conveyance of that land unless expressly named and conveyed.
- (2) Sub-paragraph (1) above shall not apply to minerals necessarily extracted or used in the construction of the undertaking.

### PART III **E+W**

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

- C21** Sch. 2 Pt. 3 applied (with modifications) (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 6 para. 17**
- C22** Sch. 2 Pt. 3 applied (with modifications) (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 3 para. 3(5)**
- C23** Sch. 2 Pt. 3 incorporated (with modifications) (7.5.2014) by [The National Grid \(North London Reinforcement Project\) Order 2014 \(S.I. 2014/1052\)](#), arts. 1, **23**  
Sch. 2 Pt. 3 incorporated (with modifications) (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014 \(S.I. 2014/2384\)](#), arts. 1, 40
- C24** Sch. 2 Pt. 3 incorporated (with modifications) (29.10.2014) by [The Able Marine Energy Park Development Consent Order 2014 \(S.I. 2014/2935\)](#), art. 32 (with arts. 30(4), 53)
- C25** Sch. 2 Pts. 2, 3 applied by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), s. 37(2), **Sch. 5 Pt. 3 para. 4**
- C26** Sch. 2 Pts. 2, 3 applied (with modifications) by [Dartford-Thurrock Crossing Act 1988 \(c. 20, SIF 59\)](#), s. 2(5), **Sch. 2 Pt. 2 para. 4(1)**  
Sch. 2 Pt. 3 applied (with modifications) (28.7.1998) by [1998 c. iv, s. 7\(1\)\(2\)](#)(with s. 41)  
Sch. 2 Pts. 2, 3 applied (with modifications) (3.6.1999) by [S.I. 1999/1555](#), art. 9  
Sch. 2 Pt. 3 applied (with modifications) (E.) (29.3.2001) by [S.I. 2001/1347](#), art. 36(1) (with arts. 15, 37, 38(2))  
Sch. 2 Pt. 3 applied (with modifications) (E.) (29.3.2001) by [S.I. 2001/1348](#), art. 12(1)
- C27** Sch. 2 Pt. 3 modified (18.12.1996) by [1996 c. 61, s. 4](#), **Sch. 4 Pt. 3 para. 13**
- C28** Sch. 2 Pt. 3 applied (with modifications) (12.8.2002) by [The Channel Tunnel Rail Link \(Thames Tunnel Approach\) Order 2002 \(S.I. 2002/1943\)](#), art. 6(2)  
Sch. 2 Pt. 3 applied (with modifications) (14.3.2002) by [The Chester Guided Busway Order 2002 \(S.I. 2002/412\)](#), art. 39(1) (with art. 38)

- 3 (1) If the owner of any underlying mines or minerals desires to work them, he shall give the acquiring authority notice in writing of his intention to do so 30 days before the commencement of working.
- (2) On receipt of the notice the acquiring authority may cause the mines to be inspected by a person appointed by them for the purpose.
- (3) Subject to paragraph 4(1) below, if the acquiring authority consider that the working of the underlying mines or minerals is likely to damage the undertaking, and is willing to compensate the owner for all or any part of the mines, the owner shall not work or get them.
- (4) If the acquiring authority and the owner do not agree on the amount of compensation the question shall be referred to and determined by the [<sup>F2</sup>Upper Tribunal] .

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### Textual Amendments

**F2** Words in Sch. 2 para. 3(4) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 151** (with Sch. 5)

- 4 (1) If before the expiration of 30 days from the receipt of notice under paragraph 3(1) above the acquiring authority do not state their willingness to treat with the owner for the payment of compensation the owner may work any of the underlying mines for which the acquiring authority has not agreed to pay compensation by proper methods and in the usual manner of working such mines in the district in question.
- (2) If any damage or obstruction to the undertaking is caused by improper working of the underlying mines—
- (a) the owner of the mines shall forthwith repair or remove the damage or obstruction at his own expense,
  - (b) the acquiring authority may, without waiting for the owner to perform his duty, or in case of his default, repair or remove the damage or obstruction and recover their expenses from the owner in proceedings in the High Court.

### *Severed mines*

- 5 (1) If underlying mines in which any protected minerals are situated extend on both sides of the undertaking, the owner of the mines may cut and make any communication works through the protected minerals required for the ventilation, drainage and working of the mines.
- (2) The communication works shall not exceed the dimensions or sections prescribed by the compulsory purchase order, and where dimensions are not so prescribed, they shall not be more than eight feet high and eight feet wide.
- (3) The communication works shall not be cut or made on any part of the undertaking, or so as to injure it or impede its use.
- (4) In this paragraph—
- (a) “protected minerals” means mines, measures or strata the working of which is prevented under paragraph 3(3) above,
  - (b) “communication works” means airways, headings, gateways or water levels.
- 6 (1) If underlying mines extend on both sides of the undertaking, the acquiring authority shall from time to time pay to the owner of the mines (in addition to any compensation under paragraph 3 above) any expenses and losses incurred by him in consequence of—
- (a) the severance by the undertaking of the land lying over the mines,
  - (b) the interruption of continuous working of the mines in consequence of paragraph 3(3) above, and
  - (c) the mines being worked in such manner and subject to such restrictions as not to prejudice or injure the undertaking,
- and for any minerals not purchased by the acquiring authority which cannot be obtained by reason of the making and maintenance of the undertaking.
- (2) Any dispute as to the amount payable under this paragraph shall be determined by arbitration.

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- 7 (1) Where works carried out under paragraph 5 above cause loss or damage to the owner or occupier of land lying over the mines the acquiring authority shall pay full compensation to him for the loss or damage.
- (2) This paragraph shall not apply where the person sustaining the loss or damage is the owner of the mines.

#### *Powers of entry*

- 8 (1) For the purpose of ascertaining whether underlying mines have been worked so as to damage the undertaking the acquiring authority may, after giving 24 hours notice in writing—
- (a) enter on any land in which the mines are, or are thought to be, being worked, and which is in or near to the land where the undertaking is situated, and
  - (b) enter the mines and any works connected with the mines.
- (2) For the said purpose the acquiring authority may make use of any apparatus or machinery belonging to the owner of the mines, and may use all necessary means for discovering the distance from the undertaking to the parts of the mines which are, or are about to be, worked.
- (3) If the owner of the mines refuses to allow a person appointed by the acquiring authority for the purpose to enter the mines or works under this paragraph he shall be liable on summary conviction to a sum not exceeding £50.

#### *Remedial works*

- 9 (1) If it appears that mines have been worked contrary to the provisions of this Schedule, the acquiring authority may give notice to the owner of the mines to construct such works and adopt such means as may be necessary or proper for making safe the undertaking, and preventing injury to it.
- (2) If the owner of the mines does not comply with the notice, the acquiring authority may themselves construct the works, and may recover their expenses from the owner by proceedings in the High Court.

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