

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>TENTH SCHEDULE

#### TRANSITIONAL PROVISIONS

##### Textual Amendments

**F1** Sch. 10 repealed by 1986 c. 63, s. 39(4), Sch. 12 Pt. II

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

**C1** “The Minister” means Minister of Power whose functions are now exercisable by Secretary of State: S.I. 1969/1498, art. 2(1) and 1970/1537, art. 2(2)

### <sup>F2</sup>PART I

#### GENERAL

##### Textual Amendments

**F2** Sch. 10 repealed (11.12.1987) by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(4), Sch. 12 Pt. II

<sup>F31</sup> (1) In this Schedule, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“annual compensation under this Act” means compensation under any of the following provisions of this Act, that is to say, sections seventeen to twenty, the provisions of any of those sections as applied by section twenty-nine, and subsection (2) of section thirty-one;

“the date of requisition”, in relation to any land, means the date on which possession of that land was or is taken in the exercise of emergency powers;

“the existing arrangements”, in relation to any land which, at the commencement of this Act, is land already requisitioned for opencast operations, or land requisitioned as an opencast storage site, means the following provisions and arrangements in so far as they apply to that land, that is to say,—

- (a) the provisions of subsection (1) of section two of the <sup>M1</sup>Compensation (Defence) Act 1939, and
- (b) any arrangements in force at the commencement of this Act whereby compensation (either in substitution for, or in addition to, compensation under those provisions) is to be payable by or on behalf of the Minister in consequence of the taking or retention of possession of the land in the exercise of emergency powers;

“interest”, in relation to any land, includes any right by virtue of which a person is entitled, or would (apart from this Act or any exercise of

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

emergency powers) be entitled, to occupy that land, and also includes any right restrictive of the use of that land;

“land already requisitioned for opencast operations” means land of which possession has before the commencement of this Act been taken in the exercise of emergency powers, and is for the time being retained in the exercise of those powers for the purpose of working coal on that land, or on land contiguous therewith, by opencast operations, or for the purpose of restoring that land after it has been affected by the working of coal by such operations;

“land hereafter requisitioned for opencast operations” means land of which possession is after the commencement of this Act taken in the exercise of emergency powers for the purpose of working coal on that land, or on land contiguous therewith, by opencast operation, and is for the time being retained in the exercise of those powers for that purpose, or for the purpose of restoring that land after it has been affected by the working of coal by such operations;

“land requisitioned for opencast operations” means land which is either land already requisitioned for opencast operations or land hereafter requisitioned for such operations;

“land requisitioned as an opencast storage site” means land which fulfils the following conditions, that is to say, that—

- (a) possession of that land was taken in the exercise of emergency powers before the eighteenth day of December, nineteen hundred and fifty-seven;
- (b) possession of that land was on that day retained in the exercise of those powers for the purpose of storing, cleaning or sorting coal or otherwise preparing it for disposal, and continues for the time being to be so retained for that purpose; and
- (c) during the period beginning with that day and ending with the commencement of this Act, the coal stored or otherwise dealt with on that land has been wholly or mainly coal got by opencast operations;

“terminal compensation under this Act” means compensation under any of the following provisions of this Act, that is to say, sections twenty-one, twenty-two and twenty-three, or under the provisions of any of those sections as applied by section twenty-nine, or under subsection (3) of section thirty-one;

“terminal compensation under the Act of 1939” means compensation under paragraph (b) of subsection (1) of section two of the <sup>M2</sup>Compensation (Defence) Act 1939;

“terminal date”, in relation to any land of which (by virtue of the following provisions of this Schedule) possession ceases to be retained in the exercise of emergency powers by reason of its being comprised in a compulsory rights order, means the date on which that order ceases to have effect, and, in relation to any other land, means the date on which possession thereof ceases to be retained in the exercise of emergency powers.

- (2) Any reference in any provision of this Schedule to a sum paid on account of a prospective right to compensation of a description specified in that provision includes a reference to a sum paid in consideration of a waiver (whether total or partial) of a prospective claim to compensation of that description.

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

#### Textual Amendments

**F3** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

#### Marginal Citations

**M1** 1939 c. 75.

**M2** 1939 c. 75.

## PART II

### OPENCAST SITES

#### *Authorisations*

- <sup>F42</sup> Subsection (1) of section one of this Act shall not have effect with respect to the working of coal on land requisitioned for opencast operations; but, for the purposes of the provisions of this Act, other than section one, any authorisation given by the Minister by virtue of the Defence (General) Regulations, 1939, whether before or after the commencement of this Act, with respect to the use of any such land by the [<sup>F5</sup>Corporation] shall be treated as if it were an authorisation granted under section one of this Act to work coal on that land by opencast operations, or to cause or permit coal to be so worked thereon.

#### Textual Amendments

**F4** Sch. 10 repealed (11.12.1987) by [Housing and Panning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [sch. 12 Pt. II](#)

**F5** Word substituted by [1987 c. 3, s. 1\(2\)](#), [Sch. 1 para. 7\(c\)](#)

- <sup>F63</sup> (1) Where at the commencement of this Act—
- any land is occupied by the [<sup>F7</sup>Corporation] for the purpose of working coal on that land, or on land contiguous therewith, by opencast operations, or for the purpose of restoring that land after it has been affected by the working of coal by such operations, and
  - the land is either land owned by the [<sup>F7</sup>Corporation], or land in which there is a Crown or Duchy interest, but no private interest other than any interest belonging to the [<sup>F7</sup>Corporation], and accordingly possession of that land has not been taken, or is not for the time being retained, in the exercise of emergency powers,
- subsection (1) of section one of this Act shall not have effect in relation to that land; but the powers conferred on the Minister by section two of this Act shall be exercisable in relation to that land as those powers would be exercisable by the Minister in relation thereto on granting an authorisation under section one of this Act comprising that land.
- The preceding sub-paragraph shall have effect notwithstanding anything in subsection (1) of section forty-four of this Act.
  - In this paragraph “Crown or Duchy interest” and “private interest” have the meanings assigned to them by section forty-four of this Act.

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

**Textual Amendments**

- F6** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)  
**F7** Word substituted by [1987 c. 3, s. 1\(2\)](#), [Sch. 1 para. 7\(c\)](#)

- <sup>F8</sup>4 The powers conferred on the Minister by section two of this Act shall be exercisable at any time in relation to any land requisitioned for opencast operations, notwithstanding that the Minister is not then granting an authorisation under section one of this Act in respect of that land, if the Minister has (whether before or after the commencement of this Act) given an authorisation which by virtue of paragraph 2 of this Schedule is to be treated as if it were an authorisation under that section.

**Textual Amendments**

- F8** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

*Termination of emergency powers*

- <sup>F9</sup>5 Where a compulsory rights order is made in respect of land requisitioned for opencast operations, any power to retain possession of land in the exercise of emergency powers shall cease to apply to that land as from the operative date of the order.

**Textual Amendments**

- F9** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

*Compulsory rights orders in respect of requisitioned opencast sites*

- <sup>F10</sup>6 Subject to the following provisions of this Part of this Schedule, where the land comprised in a compulsory rights order consists of or includes land requisitioned for opencast operations, the period specified in the order, as the period for which the order is to have effect, shall not extend beyond the tenth anniversary of the date of requisition of that land.

**Textual Amendments**

- F10** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

- [<sup>F11</sup>F12<sup>7</sup> Where the land comprised in a compulsory rights order consists exclusively of land requisitioned for opencast operation, then, notwithstanding anything in subsection (5) of section four of this Act,—
- (a) the provisions of Part I of the First Schedule to the Acquisition of Land Act, as modified by Part I of the Second Schedule to this Act, except the provisions of paragraphs 2, 5 and 6 of the said First Schedule, as so modified, and
  - (b) the provisions of Part III of the said First Schedule, as so modified,
- shall not apply to that order:

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

Provided that this paragraph shall have effect subject to the provisions of paragraph 9 of this Schedule in cases falling within that paragraph.]

#### Textual Amendments

- F11** Sch. 10 para.7 repealed (E.W.) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34(3), [Sch. 6 Pt. I](#)  
**F12** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

<sup>F13</sup>g A compulsory rights order falling within paragraph 6 or paragraph 7 of this Schedule shall not be varied by extending the period for which it has effect in such a way that, in respect of any of the land comprised in the order, that period extends beyond the tenth anniversary of the date of requisition of that land.

#### Textual Amendments

- F13** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt. II](#)

<sup>F14</sup>g (1) Where the land comprised in a compulsory rights order consists of or includes land requisitioned for opencast operations, and it appears to the [<sup>F15</sup>Corporation] that, for either or both of the reasons mentioned in the next following sub-paragraph, it is necessary that the period specified in the order, as the period for which the order is to have effect, should extend beyond the tenth anniversary of the date of requisition of that land,—

(a) the period specified in the order may extend beyond that anniversary, and shall (subject to the following provisions of this paragraph) be such period as the [<sup>F15</sup>Corporation] consider necessary in the circumstances;

(b) the order shall state the reasons for which the [<sup>F15</sup>Corporation] consider it necessary that the period specified in the order should so extend; and

(c) paragraph 7 of this Schedule shall not apply to the order, and the provisions as to the making and confirmation of the order shall be in accordance with subsection (5) of section four of this Act.

(2) The said reasons are—

(a) that a longer period is required for completing the restoration of land comprised in the order so as to be reasonably fit for use as agricultural land;

(b) that there is in force an agreement relating to that land made between the [<sup>F15</sup>Corporation] and another person before the eighteenth day of December, nineteen hundred and fifty-seven, which provides for the working of coal by that person by opencast operations, and is not an agreement under which the coal is to become the property of that other person, and a longer period is required for completing the operations provided for by the agreement.

(3) Where an order is made in the circumstances mentioned in sub-paragraph (1) of this paragraph, the period for which the order has effect shall not extend beyond the tenth anniversary of the commencement of this Act.

(4) The Minister shall not confirm an order as being an order falling within sub-paragraph (1) of this paragraph unless he is satisfied that the reasons stated in the order in accordance with that sub-paragraph are well-founded and that it is necessary for those reasons that the period for which the order has effect should extend as mentioned in that sub-paragraph.

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

**Textual Amendments**

- F14** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), **Sch. 12 Pt. II**
- F15** Word substituted by [1987 c. 3, s. 1\(2\)](#), **Sch. 1 para. 7(c)**

<sup>F16</sup>10 Where the land comprised in a compulsory rights order consists exclusively of land which, immediately before the operative date of the order, is land requisitioned for opencast operations, section five of this Act, and the Second Schedule to this Act, shall have effect in relation to the order subject to the following modifications:—

- (a) subsections (2) and (3) of that section, and Part II of that Schedule, shall not apply;
- (b) in subsection (4) of that section, for the words “date of entry” there shall be substituted the words “operative date”.

**Textual Amendments**

- F16** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), **Sch. 12 Pt. II**

<sup>F17</sup>11 Subsection (2) of section nine of this Act shall not apply to land which, at the time when the compulsory rights order in question is confirmed, is land requisitioned for opencast operations.

**Textual Amendments**

- F17** Sch. 10 repealed (11.12.1987) by [Housing and Planning Act 1986 \(c. 63, SIF 86\)](#), s. 39(4), **Sch. 12 Pt. II**

12 ..... <sup>F18</sup>

**Textual Amendments**

- F18** Sch. 10 para. 12 repealed by [Coal Industry Act 1975 \(c. 56\)](#), s. 5(3), **Sch. 5**

*Certification of payments under existing arrangements*

<sup>F19</sup>13 In respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations, the Minister shall, as soon as may be after the commencement of this Act, issue certificates in accordance with paragraphs 14 and 15 of this Schedule.

**Textual Amendments**

- F19** Sch. 10 para. 12 repealed by [Coal Industry Act 1975 \(c. 56\)](#), s. 5(3), **Sch. 5**

<sup>F20</sup>14 (1) In respect of any such land as is mentioned in the last preceding paragraph the Minister shall issue, and serve on each person who, at the commencement of this Act, is a person to whom in accordance with the existing arrangements any periodical payments are payable, a certificate stating—

- (a) the interest in land in respect of which those payments are payable to him;

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

- (b) the annual amount of the payments which are payable in respect of that interest; and
  - (c) the times at which, in accordance with the existing arrangements, those payments become payable.
- (2) For the purpose of this paragraph the Minister shall determine the annual amount of the periodical payments in respect of an interest in the land by reference to the sums paid or payable in respect of that interest in accordance with the existing arrangements for the year ending with the date of the commencement of this Act:

Provided that if, under the existing arrangements, periodical payments have been payable in respect of that interest for only part of that year, the Minister shall have regard to the amount of the sums paid or payable in respect of that interest for that part of that year, and shall adjust that amount proportionately to a full year and determine the annual amount of the periodical payments by reference to that amount as so adjusted.

#### Textual Amendments

**F20** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- 15 In respect of any such land as is mentioned in paragraph 13 of this Schedule the Minister shall <sup>F21</sup>also issue a certificate and serve it on the person who, at the time of issue of the certificate, is the owner of that land, stating whether any sum has been paid in respect of that land on account of any prospective right to terminal compensation under the Act of 1939, and, if so, the amount of the sum so paid.

#### Textual Amendments

**F21** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F22</sup>16 The Minister shall serve on the [<sup>F23</sup>Corporation] a copy of any certificate issued under paragraph 14 or paragraph 15 of this Schedule.

#### Textual Amendments

**F22** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

**F23** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

#### *Annual and initial compensation*

- <sup>F24</sup>17 In respect of any land hereafter requisitioned for opencast operations—
- (a) no compensation shall be payable under any of paragraphs (a), (c) and (d) of subsection (1) of section two of the <sup>M3</sup>Compensation (Defence) Act 1939;
  - (b) annual compensation under this Act shall be payable as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land;
  - (c) compensation under section twenty-six of this Act (or under that section as extended by section twenty-eight of this Act) shall, where applicable, be payable as if the land were comprised in a compulsory rights order and the date of requisition of the land were the date of entry under that order; and

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

- (d) compensation under section twenty-seven of this Act (or under the provisions of that section as applied by section twenty-nine of this Act) shall, where applicable, be payable as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land, and as if anything done in consequence of the taking of possession of the land in the exercise of emergency powers had been done in consequence of the confirmation of that order.

#### Textual Amendments

**F24** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### Marginal Citations

**M3** 1939 c. 75.

<sup>F25</sup>18 Subject to the following provisions of this Part of this Schedule, in respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations—

- (a) periodical payments shall continue to be payable in accordance with the existing arrangements, and
- (b) if the land is subsequently comprised in a compulsory rights order, no annual compensation under this Act shall be payable, but periodical payments shall continue to be payable in accordance with the existing arrangements as if the order had not been made:

Provided that no such periodical payments shall accrue due in respect of any land after the terminal date.

#### Textual Amendments

**F25** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

<sup>F26</sup>19 Any periodical payments which continue to be payable as mentioned in the last preceding paragraph, in so far as they accrue due after the commencement of this Act, shall be payable by the [<sup>F27</sup>Corporation] and not by the Minister or by any other person.

#### Textual Amendments

**F26** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

**F27** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

<sup>F28</sup>20 The annual amount of any such periodical payments which are payable in respect of an interest in land shall be taken to be the annual amount specified in the certificate issued in respect of that interest under paragraph 14 of this Schedule.

#### Textual Amendments

**F28** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2



*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

- <sup>F29</sup>21 (1) In respect of any land which, at the commencement of this Act, is land already requisitioned for opencast operations, any person who claims that, if annual compensation under this Act were payable in respect of that land, he would be entitled to such compensation in respect of an interest in that land, may, at any time before the first anniversary of the commencement of this Act, serve notice on the [<sup>F30</sup>Corporation] requiring that annual compensation under this Act shall be payable in respect of that interest.
- (2) The right to serve a notice under this paragraph shall apply whether the land in question is for the time being comprised in a compulsory rights order or not.
- (3) Any notice served under this paragraph shall be in such form, and shall contain such information, as may be prescribed.

#### Textual Amendments

**F29** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

**F30** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- <sup>F31</sup>22 (1) The effect of a notice under the last preceding paragraph in respect of an interest in land shall be as follows:—
- (a) any annual compensation under this Act which, in the circumstances specified in the next following sub-paragraph, would have accrued due in respect of that interest for the period beginning with the commencement of this Act and ending with the terminal date, or for any part of that period, shall be payable, or shall be treated as having become payable, as the case may require, as if those circumstances had existed;
- (b) if apart from the notice periodical payments would have become payable in respect of that interest in accordance with the existing arrangements, and would have accrued due after the date of service of the notice, those payments shall not be payable;
- (c) any periodical payments already paid in respect of that interest in accordance with the existing arrangements, in so far as they accrued due after the commencement of this Act, shall be set off against annual compensation under this Act payable in respect of that interest.
- (2) The said circumstances are those which would have existed if—
- (a) this Act had been in operation before the date of requisition of the land in question, and had contained no restriction as to the duration of the period for which a compulsory rights order could have effect;
- (b) a compulsory rights order comprising that land had come into operation on the date of requisition, and the requirements of subsection (2) of section five of this Act in relation to that order had been duly complied with;
- (c) the period of occupation under that order had been a period ending on the date which, in relation to that land, is the terminal date; and
- (d) anything done in relation to that land in the exercise of emergency powers had been done in the exercise of rights conferred by that order.
- (3) In the preceding sub-paragraphs any reference to the commencement of this Act, or to the terminal date, in relation to any land, shall (notwithstanding anything in the last preceding sub-paragraph) be construed as a reference to the actual date on which

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

this Act comes into operation, or to the actual terminal date in relation to that land, as the case may be.

#### Textual Amendments

**F31** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F32</sup>23 (1) At any time after the first anniversary of the commencement of this Act, any person who is entitled to an interest in land in respect of which a notice could have been, but has not been, served under paragraph 21 of this Schedule, may serve notice on the [<sup>F33</sup>Corporation] requiring that annual compensation under this Act shall be payable in respect of that interest.
- (2) Sub-paragraphs (2) and (3) of paragraph 21 of this Schedule, and the provisions of the last preceding paragraph, shall apply to a notice under this paragraph as they apply to a notice under the said paragraph 21, so however that in the application of the provisions of the last preceding paragraph to a notice under this paragraph any reference to the commencement of this Act, or to the date of service of the notice, shall be construed as a reference to the anniversary of the commencement of this Act which next occurs after the service of the notice.

#### Textual Amendments

**F32** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

**F33** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

#### *Terminal compensation*

- <sup>F34</sup>24 Where after the commencement of this Act possession of any land ceases to be retained in the exercise of emergency powers by reason of the coming into operation of a compulsory rights order comprising that land, no terminal compensation under the Act of 1939 shall be payable in respect of that land.

#### Textual Amendments

**F34** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F35</sup>25 In respect of any land hereafter requisitioned for opencast operations of which possession ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land,—
- (a) no terminal compensation under the Act of 1939 shall be payable, but
  - (b) terminal compensation under this Act shall be payable as if the land had been comprised in a compulsory rights order which became operative on the date of requisition of the land, and the period of occupation under that order came to an end on the terminal date, and as if anything done in relation to that land in the exercise of emergency powers had been done in the exercise of rights conferred by that order.

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

#### Textual Amendments

**F35** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

<sup>F36</sup>26 In respect of any land already requisitioned for opencast operations of which, after the commencement of this Act, possession ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land,—

- (a) no terminal compensation under the Act of 1939 shall be payable, but
- (b) there shall be payable all such terminal compensation under this Act as would have been payable in the circumstances specified in subparagraph (2) of paragraph 22 of this Schedule.

#### Textual Amendments

**F36** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

<sup>F37</sup>27 For the purposes of the application of any of the provisions of this Act, other than this Schedule, to any land falling within paragraph 24, paragraph 25 or paragraph 26 of this Schedule, any reference in those provisions to the date of entry shall be construed as a reference to the date of requisition of the land.

#### Textual Amendments

**F37** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

<sup>F38</sup>28 Where compensation under section twenty-three of this Act, or under the provisions of that section as applied by section twenty-nine of this Act, would, apart from this paragraph, be payable in respect of any land falling within paragraph 24 or paragraph 26 of this Schedule, and in a certificate issued in respect of that land under paragraph 15 of this Schedule it is stated that a sum was paid in respect of that land as therein mentioned, the amount of that sum (as stated in the certificate) shall be deducted from the amount of that compensation.

#### Textual Amendments

**F38** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Tenant's improvements*

<sup>F39</sup>29 In relation to any land falling within paragraph 24 of this Schedule, the provisions of section twenty-four or section thirty of this Act, where applicable, shall have effect subject to the modification specified in paragraph 27 of this Schedule.

#### Textual Amendments

**F39** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

<sup>F40</sup>30 In relation to any land falling within paragraph 25 of this Schedule, the provisions of section twenty-four or section thirty of this Act, where applicable, shall have

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

effect (subject to the modification specified in paragraph 27 of this Schedule) as if the land had been comprised in a compulsory rights order which became operative on the date of requisition of the land, and the period of occupation under that order came to an end on the terminal date.

#### Textual Amendments

**F40** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F41</sup>31 In relation to any land falling within paragraph 26 of this Schedule, the provisions of section twenty-four or section thirty of this Act, where applicable, shall have effect (subject to the modification specified in paragraph 27 of this Schedule) as those provisions would have had effect in the circumstances specified in sub-paragraph (2) of paragraph 22 of this Schedule.

#### Textual Amendments

**F41** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Depreciation of other land in same ownership*

- <sup>F42</sup>32 (1) The Minister may by regulations make provision for the payment of compensation in respect of land which, at such time as may be prescribed by the regulations, is land wherein the interest of the owner is held by a person who is also the owner of land requisitioned for opencast operations.
- (2) Any such provision made by regulations under this paragraph shall be such as the Minister may consider appropriate for securing that compensation is payable thereunder, in respect of land to which the regulations apply, in cases, and according to principles, corresponding as nearly as may be with the cases in which, and the principles according to which, compensation is payable under section thirty-two of this Act in respect of land to which that section applies.

#### Textual Amendments

**F42** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Provisions as to minerals*

- <sup>F43</sup>33 (1) The powers conferred by Regulation fifty-one A of the Defence (General) Regulations, 1939, shall not be exercisable for the purpose of the working of minerals on any land which is for the time being comprised in a compulsory rights order which has become operative.
- (2) The preceding sub-paragraph shall have effect without prejudice to the provisions of Part IV of this Schedule as to the temporary stopping up of highways.

#### Textual Amendments

**F43** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

- <sup>F44</sup>34 In respect of any land requisitioned for opencast operations—
- (a) the provisions (where applicable) of the Fifth Schedule to this Act, other than paragraphs 7 to 10, paragraph 13 and sub-paragraphs (3) to (5) of paragraph 14 of that Schedule, and the provisions (where applicable) of Part IV of the Seventh Schedule to this Act, shall apply in relation to any time after the commencement of this Act and before the terminal date as if the land were comprised in a compulsory rights order which became operative on the date of requisition of the land, and
  - (b) the provisions of paragraphs (3) to (5) of the said Regulation fifty-one A shall not apply in relation to any such time.

**Textual Amendments**

**F44** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F45</sup>35 Where after the commencement of this Act possession of any land ceases to be retained in the exercise of emergency powers by reason of the coming into operation of a compulsory rights order comprising that land—
- (a) no sum shall be payable in respect of that land by virtue of paragraph (6) of the said Regulation fifty-one A, but
  - (b) the provisions (where applicable) of the Fifth Schedule to this Act, other than paragraphs 3 to 6, paragraph 12 and sub-paragraph (2) of paragraph 14 of that Schedule, shall apply in relation to that land as if any reference in those provisions to the operative date or to the date of entry were a reference to the date of requisition of the land.

**Textual Amendments**

**F45** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F46</sup>36 Where after the commencement of this Act—
- (a) possession of any land ceases to be retained in the exercise of emergency powers, otherwise than by reason of the coming into operation of a compulsory rights order comprising that land, and
  - (b) immediately before the time when possession of that land ceases to be so retained, the land was land requisitioned for opencast operations,
- no sum shall be payable in respect of that land by virtue of paragraph (6) of the said Regulation fifty-one A, but the provisions (where applicable) of the Fifth Schedule to this Act (with the exceptions specified in the last preceding paragraph) shall apply as if the land had been comprised in a compulsory rights order under which the period of occupation came to an end on the terminal date.

**Textual Amendments**

**F46** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F47</sup>37 (1) Where at the commencement of this Act—
- (a) any land already requisitioned for opencast operations is land which, if it were comprised in a compulsory rights order which became operative

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

immediately after the commencement of this Act, would (within the meaning of the Fifth Schedule to this Act) be land to which that Schedule applies, and

(b) in respect of that land any sum has been paid (whether by the Minister or by the [<sup>F48</sup>Corporation]) on account of any prospective right to compensation under the said Regulation fifty-one A,

the Minister shall, as soon as may be after the commencement of this Act, issue a certificate specifying the amount and date of payment of that sum and the person to whom it was paid.

- (2) Any certificate required to be issued in respect of any land in accordance with the preceding sub-paragraph shall be served on any person who, at the date of issue of the certificate, would (within the meaning of the Fifth Schedule to this Act) be the mineral operator in relation to that land if the land were comprised in such a compulsory rights order as is mentioned in the preceding sub-paragraph.
- (3) The Minister shall serve on the [<sup>F48</sup>Corporation] a copy of any certificate issued under this paragraph.

#### Textual Amendments

**F47** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

**F48** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- <sup>F49</sup>38 (1) The provisions of this paragraph shall have effect with respect to any sum specified in a certificate issued under the last preceding paragraph.
- (2) So much (if any) of that sum as was paid in respect of compensation which (apart from paragraph 34 of this Schedule) would have accrued due after the commencement of this Act under paragraph (4) or paragraph (5) of the said Regulation fifty-one A shall be set off against any compensation becoming payable, in respect of any of the land to which the certificate relates, under paragraph 4 or paragraph 5 of the Fifth Schedule to this Act.
- (3) So much (if any) of that sum as was paid in respect of a prospective right to compensation under paragraph (6) or paragraph (7) of the said Regulation fifty-one A shall be set off against any compensation which may become payable by virtue of the operation, in relation to any of the land to which the certificate relates, of any provisions of the Fifth Schedule to this Act in accordance with paragraph 35 or paragraph 36 of this Schedule.
- (4) For the avoidance of doubt it is hereby declared that subsection (3) of section forty of this Act applies to any dispute about what proportion of any sum specified in such a certificate was paid as mentioned in sub-paragraph (2) or sub-paragraph (3) of this paragraph.

#### Textual Amendments

**F49** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Provisions as to allotment gardens and other allotments*

- <sup>F50</sup>39 The provisions of the Eighth Schedule to this Act shall have effect in relation to any land hereafter requisitioned for opencast operations as if—

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

- (a) the land were comprised in a compulsory rights order which had become operative, and
- (b) anything done in consequence of the taking of possession of the land in the exercise of emergency powers had been done in consequence of the confirmation of that order:

Provided that for the purposes of the application of those provisions in accordance with this paragraph any reference in those provisions to the operative date of the order or to the date of entry shall be construed as a reference to the date of requisition of the land.

#### Textual Amendments

**F50** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F51</sup>40 The provisions of the Eighth Schedule to this Act shall not have effect in relation to any land which, at the commencement of this Act, is land already requisitioned for opencast operations, whether that land is subsequently comprised in a compulsory rights order or not.

#### Textual Amendments

**F51** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Concurrent requisitions*

- <sup>F52</sup>41 The Minister may by regulations make provision for modifying or adapting any of the provisions of this Act relating to compensation (including any such provisions contained in this Schedule) in their application to any land in circumstances corresponding (by reason that two or more parcels of land are at the same time land requisitioned for opencast operations) to the circumstances for which, in relation to compulsory rights orders, provision can be made by regulations under paragraph 29 of the Sixth Schedule to this Act.

#### Textual Amendments

**F52** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

### PART III

#### STORAGE SITES

#### *Termination of emergency powers*

- <sup>F53</sup>42 Where a compulsory rights order is made in respect of land requisitioned as an opencast storage site, any power to retain possession of land in the exercise of emergency powers shall cease to apply to that land as from the operative date of the order.

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

#### Textual Amendments

**F53** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Certification of payments under existing arrangements*

- <sup>F54</sup>43 Paragraphs 13 to 16 of this Schedule shall apply in relation to land which, at the commencement of this Act, is land requisitioned as an opencast storage site as they apply in relation to land which, at the commencement of this Act, is land already requisitioned for opencast operations.

#### Textual Amendments

**F54** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Annual compensation*

- <sup>F55</sup>44 Paragraphs 18 to 23 of this Schedule shall apply in relation to land which, at the commencement of this Act, is land requisitioned as an opencast storage site as they apply in relation to land which, at the commencement of this Act, is land already requisitioned for opencast operations.

#### Textual Amendments

**F55** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Terminal compensation and tenant's improvements*

- <sup>F56</sup>45 Paragraphs 24, 26, 27, 28 and 31 of this Schedule shall have effect in relation to any land which, at the commencement of this Act, is land requisitioned as an opencast storage site, as if any reference in those paragraphs to land already requisitioned for opencast operations were a reference to land requisitioned as an opencast storage site.

#### Textual Amendments

**F56** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

#### *Depreciation of other land in same ownership*

- <sup>F57</sup>46 In sub-paragraph (1) of paragraph 32 of this Schedule, the reference to land requisitioned for opencast operations shall include a reference to land requisitioned as an opencast storage site; and the power to make regulations under that paragraph shall be exercisable accordingly.

#### Textual Amendments

**F57** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2



*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

### *Concurrent requisitions*

- <sup>F58</sup>47 In paragraph 41 of this Schedule, the reference to two or more parcels of land which are at the same time land requisitioned for opencast operations shall include references—
- (a) to two or more parcels of land of which one or more are land requisitioned for opencast operations and the other or others are at the same time land requisitioned as opencast storage sites, and
  - (b) to two or more parcels of land both or all of which are at the same time land requisitioned as opencast storage sites;
- and the power to make regulations under that paragraph shall be exercisable accordingly.

#### **Textual Amendments**

**F58** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

## **PART IV**

### TEMPORARY STOPPING UP OF HIGHWAYS

- <sup>F59</sup>48 (1) This Part of this Schedule applies to any order made before the commencement of this Act under Regulation fifty-one A of the Defence (General) Regulations, 1939, in so far as it—
- (a) provided for the temporary stopping up of a highway (not being a highway over which there was a public right of way enjoyable by vehicular traffic) across any land which, at the commencement of this Act, is land already requisitioned for opencast operations, and
  - (b) is in force immediately after the commencement of this Act.
- (2) This Part of this Schedule also applies to any order made after the commencement of this Act under that Regulation in so far as it provides for the temporary stopping up of such a highway across any land which, at the time when the order is made, is land requisitioned for opencast operations.

#### **Textual Amendments**

**F59** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

- <sup>F60</sup>49 In so far as any order made under that Regulation is an order to which this Part of this Schedule applies,—
- (a) the order shall have effect as if it had been made under section three of the Acquisition of Land Act as applied by section fifteen of this Act, and may be varied or revoked accordingly, and
  - (b) the order shall not be affected by any enactment or Order in Council whereby that Regulation is revoked or varied.

#### **Textual Amendments**

**F60** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

*Status: Point in time view as at 27/11/2003.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE. (See end of Document for details)*

## PART V

### PROVISIONS AS TO WOODLANDS

- <sup>F61</sup>50 Without prejudice to any exercise of the power conferred on the Minister by paragraph 15 of the Sixth Schedule to this Act, the Minister may by regulations make provision for modifying or adapting any of the provisions of this Act relating to compensation (including any such provisions contained in this Schedule) in their application to land which—
- (a) at such time as may be prescribed for the purposes of this subparagraph (either generally, or in relation to any particular provision of this Act, or in relation to land of any description specified in the regulations) is or was land requisitioned for opencast operations or land requisitioned as an opencast storage site, and
  - (b) at such time as may be so prescribed for the purposes of this subparagraph, is or was land used as woodlands, or as woodlands of a particular description specified in the regulations.

#### Textual Amendments

**F61** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

## PART VI

### APPLICATION TO SCOTLAND

- <sup>F62</sup>51 In the application of this Schedule to Scotland, for any reference to the Acquisition of Land Act there shall be substituted a reference to the Scottish Acquisition of Land Act.

#### Textual Amendments

**F62** Sch. 10 repealed (11.12.1987) by 1986 c. 63, s. 39(4), Sch. 12 Pt. II; S.I. 1987/1939, arts. 1, 2

**Status:**

Point in time view as at 27/11/2003.

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, TENTH SCHEDULE.