

*Status: Point in time view as at 25/07/2003.*

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

## SCHEDULES

### <sup>F1</sup>FIRST SCHEDULE **E+W+S**

#### Textual Amendments

**F1** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**

<sup>F2</sup>1 The Minister shall not grant an authorisation under section one of this Act except in pursuance of an application made by the [<sup>F3</sup>Corporation] in accordance with the following provisions of this Schedule.

#### Textual Amendments

**F2** Sch. 1 repealed by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**

**F3** Word substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**

<sup>F4</sup>2 Every such application—

- (a) shall be in the prescribed form, and shall describe by reference to a map the land which the [<sup>F5</sup>Corporation] will require to occupy for the purpose of enabling operations which (if the authorisation is granted) will be authorised operations to be carried out (in this Schedule referred to as “the relevant land”), and
- (b) shall indicate by reference to the map which are the parts of the relevant land on which it is proposed to work coal by opencast operations, [<sup>F6</sup>and
- (c) in the case of an application which includes an application for an order under section 15 of this Act, shall indicate, by reference to the map, the right of way to which the application relates and the alternative way (if any) which the [<sup>F5</sup>Corporation] propose to make available].

#### Textual Amendments

**F4** Sch. 1 repealed by Housing and Planning Act 1986 (c. 63, SIF 86), s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**

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

**F6** Para. 2(c) added by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 1**

<sup>F7</sup>3 (1) Every such application shall also include the prescribed information as to the operations proposed to be carried out—

- (a) for the purpose of working the coal;
- (b) for the purpose of restoring land affected by the working of the coal or by operations connected therewith;
- (c) for any purpose incidental to either of those purposes.

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- (2) The information prescribed for the purposes of the preceding sub-paragraph shall be information of such descriptions, and containing such particulars as to the operations proposed to be carried out for the several purposes mentioned in that sub-paragraph, as in the opinion of the Minister would be requisite for enabling him to perform his functions under this Act with due regard to the nature, extent and duration of the proposed operations.

#### Textual Amendments

**F7** Sch. 1 repealed by [Housing and Planning 1986 \(c. 63, SIF 86\)](#), s. 39(4), [Sch. 12 Pt II](#); S.I. 1987/1939, arts. 1, 2

<sup>F84</sup> [<sup>F9</sup>(1)] Before submitting to the Minister an application for the Minister's authorisation under section one of this Act, the [<sup>F10</sup>Corporation] shall—

- (a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the relevant land is situated and in the London Gazette a notice in the prescribed form stating the intention of the [<sup>F10</sup>Corporation] to submit the application to the Minister, describing the relevant land, naming a place in the locality where a copy of the application and of the map referred to therein can be inspected, and specifying the time (not being less than twenty-eight days from the first publication of the notice) within which, and the manner in which, objections to the application can be made;
- (b) serve on every local planning authority in whose area any part of the relevant land is situated, and on every other local authority, being the council of a county, county borough or [<sup>F11</sup>district] in whose area any part of that land is situated, a notice in the prescribed form stating that the application is intended to be submitted to the Minister, and specifying the time (not being less than twenty-eight days from the service of the notice) within which, and the manner in which, objections to the application can be made;
- (c) except in so far as the Minister directs that this provision shall not have effect in any particular case, serve a like notice on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any part of the relevant land;
- (d) in the case of any land with respect to which a direction is given under the last preceding sub-paragraph, affix to some conspicuous object or objects on the land a notice or notices in the prescribed form addressed to “the owners and any occupiers” of the land (describing it) containing the particulars required to be contained in a notice served under the last preceding sub-paragraph:

Provided that no direction under sub-paragraph (c) of this paragraph shall have effect in relation to an owner, lessee or occupier being a local authority or statutory undertakers or the National Trust.

[<sup>F12</sup>(2) If the [<sup>F10</sup>Corporation] propose to include in an application for an authorisation under section 1 of this Act an application for an order under section 15 thereof, sub-paragraph (1) above shall have effect as if—

- (a) any reference therein to the application for the authorisation included a reference to the application for the order under section 15;
- (b) the local authorities specified in paragraph (b) thereof included the council of a parish or community and the parish meeting of a parish which does not have a separate parish council; and

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(c) at the end of paragraph (d) thereof there were inserted the following paragraph:—

“(e) in any case where the application is to include an application for an order under section 15 of this Act suspending a public right of way, cause a copy of the notice referred to in paragraph (b) of this paragraph to be displayed in a prominent position at the ends of the public right of way to which the application relates.”]

#### Textual Amendments

- F8** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, arts. 1, 2
- F9** Word “(1)” inserted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 2**
- F10** Word substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**
- F11** Word substituted by virtue of Local Government Act 1972 (c. 70), s. 179(3)
- F12** Para. 4(2) added by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 2**

- <sup>F13</sup>5 (1) Where under the last preceding paragraph a notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Church Commissioners.
- (2) In this paragraph “ecclesiastical property” means land belonging to an ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of a diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

#### Textual Amendments

- F13** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, arts. 1, 2

- <sup>F14</sup>6 (1) In the case of any application under this Schedule where the Minister, after consultation with the [<sup>F15</sup>Corporation], is satisfied that a compulsory rights order will be required in respect of the relevant land or part thereof, the Minister, if he thinks fit, may give notice to the [<sup>F15</sup>Corporation] that he does not propose to proceed with the application until the [<sup>F15</sup>Corporation] have made such an order, and have applied to the Minister for confirmation thereof, and that he will then proceed concurrently with respect to the application for authorisation under section one of this Act and with respect to the application for confirmation of the compulsory rights order.
- (2) Where the Minister gives notice to the [<sup>F15</sup>Corporation] under the preceding subparagraph, he shall give a like notice to every local planning authority or other local authority, and to every owner, lessee or occupier, on whom notice was required to be served under paragraph 4 of this Schedule and who has made objection to the application.
- (3) Where the Minister has given notice to the [<sup>F15</sup>Corporation] under this paragraph he shall not (unless he otherwise determines) be required to proceed with the application for authorisation except in accordance with the notice.

#### Textual Amendments

- F14** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, arts. 1, 2

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**F15** Word substituted by 1987 c. 3, s. 1(2), Sch. 1 para. 7(c)

- <sup>F167</sup> (1) Subject to the last preceding paragraph, if no objection is made by any such local planning authority or other local authority as is mentioned in sub-paragraph (b) of paragraph 4 of this Schedule, or by any such owner, lessee or occupier as is mentioned in sub-paragraph (c) of that paragraph, or if all objections so made are withdrawn, the Minister, upon being satisfied that the proper notices have been published and served, may if he thinks fit [<sup>F17</sup>after considering any other objections which are duly made and not withdrawn—
- (a) grant the authorisation, and
  - (b) where the application includes an application for an order under section 15 of this Act, make such an order,
- either in accordance with the [<sup>F18</sup>Corporation's] application or subject to such modifications as he may determine].
- (2) If any objection [<sup>F19</sup>to the grant of the authorisation is] duly made by any such local planning authority or other local authority, or by any such owner, lessee or occupier [<sup>F19</sup>and] is not withdrawn, the Minister shall cause a public local inquiry to be held, and shall consider [<sup>F20</sup>all objections to the grant of the authorisation which are duly made and not withdrawn] and the report of the person who held the inquiry before determining whether to grant the authorisation; and if he determines to grant it, he may do so either in accordance with the [<sup>F18</sup>Corporation's] application or subject to such modifications as he may determine.
- <sup>F21</sup>(2A) If, in the case of an application which includes an application for an order under section 15 of this Act, any objection to the making of the order is duly made by the council of any such county or district or, in Scotland, by any such local authority as is mentioned in paragraph 4(1)(b) of this Schedule and is not withdrawn, the Secretary of State shall cause a public local inquiry to be held and shall consider all objections to the making of the order which are duly made and not withdrawn and the report of the person who held the inquiry before determining whether to make the order; and if he determines to make the order, he may do so either in accordance with the [<sup>F18</sup>Corporation's] application or subject to such modification as he may determine.
- (2B) If, in a case where a public local inquiry is required to be held by virtue of sub-paragraph (2) above, such an inquiry is also required to be held by virtue of sub-paragraph (2A) above the Secretary of State may direct that those inquiries, including, in a case falling within paragraph 6 of this Schedule, any inquiry relating to a compulsory rights order on which proceedings are to be taken concurrently with the proceedings relating to the application for an authorisation, shall be held concurrently.]
- (3) Without prejudice to [<sup>F22</sup>sub-paragraph (2) and (2A) above], the Minister may, if he thinks fit, cause a public local inquiry to be held before determining whether to grant the authorisation, [<sup>F23</sup>or, as the case may be, make an order] notwithstanding that no objection has been made as mentioned in [<sup>F22</sup>either or both of those sub-paragraphs] or that every objection so made has been withdrawn.
- (4) In a case where the Minister determines to accede to the application subject to modifications, the authorisation shall not extend to land not comprised in the relevant land as described in the application, and shall not authorise the working of coal by

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open-cast operations on a part of the relevant land which was not indicated in the application as a part of the land on which coal was proposed to be so worked.

#### Textual Amendments

- F16** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**
- F17** Words substituted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 3(1)(2)**
- F18** Word substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**
- F19** Words inserted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 3(1)(3)**
- F20** Words substituted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 3(1)(3)**
- F21** Para. 7(2A), (2B) inserted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 3(1)(4)**
- F22** Words substituted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 3(1)(5)**
- F23** Words inserted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 3(1)(5)**

<sup>F24</sup>¶<sup>F25</sup>(1) As soon as may be after the authorisation has been granted, the [<sup>F26</sup>Corporation] shall publish in one or more local newspapers circulating in the locality in which the relevant land is situated and in the London Gazette a notice in the prescribed form describing the relevant land, stating that the authorisation has been granted, and naming a place in the locality where a copy of the authorisation and of the map referred to therein can be inspected at all reasonable hours, and shall serve a like notice and a copy of the authorisation on any persons on whom notices of the application were required to be served under paragraph 4 of this Schedule.

[<sup>F27</sup>(2) Where an order is made under section 15 of this Act, sub-paragraph (1) above shall have effect in relation to the order as if—

- (a) any reference therein to the authorisation were a reference to the order;
- (b) any reference therein to the grant of the authorisation were a reference to the making of the order; and
- (c) any reference to the relevant land were a reference both to the right of way which is suspended by the order and the alternative way which is to be made available as mentioned in section 15(2)(c) of this Act.]

#### Textual Amendments

- F24** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**
- F25** Word (1) inserted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 4**
- F26** Word substituted by 1987 c. 3, s. 1(20), Sch. 1 para. 7(c)
- F27** Para. 8(2) added by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 4**

<sup>F28</sup>¶<sup>F29</sup>Part IV of the Acquisition of Land Act 1981 and paragraphs 15 and 16 of Schedule 1 to the Scottish Acquisition of Land Act](which relate to the validity and date of operation of compulsory purchase orders) shall with the necessary modifications (and, in particular, with the substitution of references to this Act for references to that Act) apply in relation to authorisations under section one of this Act as they apply in relation to compulsory purchase orders.

#### Textual Amendments

- F28** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**
- F29** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(1), **Sch. 4 para. 11(5)(a)**

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- <sup>F30</sup>10 For the purposes of the provisions of paragraph 4 of this Schedule, and of the provisions of [<sup>F31</sup>section 23(4)(b) of the Acquisition of Land Act 1981 and paragraph 15 of Schedule 1 to the Scottish Acquisition of Land Act]as applied by the last preceding paragraph, the first publication of a notice shall be treated as taking place on the date on which the notice is first published in accordance with those provisions in a local newspaper, or of the date on which it is first published in the London Gazette, whichever is the later date.

#### Textual Amendments

- F30** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**  
**F31** Words substituted by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(1), **Sch. 4 para. 11(5)(b)**

- <sup>F32</sup>11 In the application of this Schedule to Scotland, for references . . . <sup>F33</sup> to the London Gazette, to the National Trust . . . <sup>F34</sup>there shall be substituted respectively references . . . <sup>F33</sup> to the Edinburgh Gazette, to the National Trust for Scotland . . . <sup>F34</sup>; and [<sup>F35</sup>paragraphs 4(2)(b) and 5] shall be omitted . . . <sup>F34</sup>

#### Textual Amendments

- F32** Sch. 1 repealed (11.12.1987) by 1986 c. 63, s. 39(4), **Sch. 12 Pt. II**; S.I. 1987/1939, **arts. 1, 2**  
**F33** Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**  
**F34** Words repealed by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34(1), **Sch. 4 para. 11(5)(c)**  
**F35** Words substituted by Coal Industry Act 1975 (c. 56), s. 5(2)(3), **Sch. 4 para. 5**

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