



Opencast Coal Act 1958

1958 CHAPTER 69

PART I

AUTHORISATION OF, AND FACILITIES FOR, OPENCAST WORKING OF COAL

2 Planning permission for authorised operations

(1) Upon granting an authorisation under the preceding section, the Minister may direct that, in so far as the carrying out of any authorised operations, or any change in the use of land which is made for the authorised purposes, constitutes development within the meaning of the Town and Country Planning Act, 1947 (in this Act referred to as " the Act of 1947 "), permission for that development shall be deemed to be granted under Part III of that Act, subject to such conditions as may be specified in the directions.

(2) Any directions given by the Minister under this section shall include such conditions as the Minister may consider reasonable with respect to the restoration, by or at the cost of the Board, of land worked or damaged in the course of any authorised operations:

Provided that, in the case of land which, at the time when the directions are given, is agricultural land, the conditions so included (except where the Minister is satisfied that the land is not likely to be used as agricultural land when it ceases to be occupied for the authorised purposes) shall be such as in the opinion of the Minister will secure its restoration so as to be reasonably fit for use as agricultural land.

(3) Where permission is deemed to be granted under Part III of the Act of 1947 by virtue of any directions given under this section, the provisions of that Act shall apply in relation thereto as if the permission had been granted by the Minister of Housing and Local Government on an application referred to him under section fifteen of that Act; and, in so far as any conditions specified in the directions are conditions of such a description that they could not have been imposed by that Minister on granting permission on such an application, those provisions shall apply as if the powers exercisable by that Minister by virtue of the said section fifteen included power to impose conditions of that description.

Status: This is the original version (as it was originally enacted).

- (4) Where the Minister has granted an authorisation under the preceding section, and any of the land comprised in the authorisation is affected by a tree preservation order,—
- (a) subject to the following provisions of this subsection, any authorised operations may be carried out as if the tree preservation order had not been made ;
 - (b) in giving any directions under this section in connection with such an authorisation, in relation to land affected by a tree preservation order, the Minister shall consider what conditions (if any) should be imposed with respect to the planting of trees in place of any which may be felled in the course of the operations, or for securing the preservation of particular trees; and
 - (c) without prejudice to the last preceding paragraph, the Minister may designate any trees on that land which in his opinion should be excepted from the operation of paragraph (a) of this subsection, and that paragraph shall not apply to any trees designated by the Minister under this paragraph.
- (5) The Board shall not be entitled by virtue of the Act of 1947 or any regulations made thereunder to the payment of compensation by any local planning authority in respect of—
- (a) any order revoking or modifying permission deemed to have been granted by virtue of directions under this section, or
 - (b) any order (not falling within the preceding paragraph) revoking or modifying permission for the working of coal by opencast operations or for any development incidental to any such working of coal, or
 - (c) any decision whereby any such permission as is mentioned in the last preceding paragraph is refused, or is granted subject to conditions, or
 - (d) any order or decision (not falling within any of the preceding paragraphs) relating to land in respect of which, immediately before that order or decision, there is in force any such permission as is mentioned in paragraph (a) or paragraph (b) of this subsection,
- being (in any such case) an order or decision in respect of which, apart from this subsection, a right to claim compensation from the local planning authority would have accrued after the commencement of this Act.
- (6) In this section " tree preservation order " has the meaning assigned to it by section twenty-eight of the Act of 1947.
- (7) In the application of this section to Scotland, for references to the Act of 1947, to Part III of that Act, and to sections fifteen and twenty-eight of that Act, there shall be substituted respectively references to the Town and Country Planning (Scotland) Act, 1947 (in this Act referred to as " the Scottish Act of 1947 "), to Part II of that Act, and to sections thirteen and twenty-six of that Act; and for the references to the Minister of Housing and Local Government there shall be substituted references to the Secretary of State.