



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART III

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### 44 Crown land.

- (1) Subject to the provisions of this section, the provisions of this Act shall apply in relation to land in which there is a Crown or Duchy interest as they apply in relation to land in which there is no such interest:

Provided that (subject to any express provision in this Act to the contrary) the provisions of this Act shall not apply to any land in which there is a Crown or Duchy interest, but no private interest other than any interest belonging to [<sup>F1</sup>the Coal Authority].

- (2) Except with the consent of the appropriate authority—
- (a) no compulsory rights order shall be made in respect of any land in which for the time being there is a Crown or Duchy interest;
  - (b) no order shall be made under section sixteen of this Act in respect of any such land;
  - (c) the powers conferred by section thirty-nine of this Act shall not be exercisable in relation to any such land:

Provided that nothing in this section shall affect the validity or operation of an order, or the exercise of any power, as against any person having, in or over the land in question, any interest or right other than a Crown or Duchy interest.

- (3) Where a compulsory rights order is, with the consent of the appropriate authority, made in respect of land in which there is a Crown or Duchy interest, that interest (in so far as the order confers rights exercisable as against all persons directly concerned) shall be treated as not being the interest of a person directly concerned, and no compensation shall be payable <sup>F2</sup> . . . under Part II of this Act in respect of that interest.

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*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 44. (See end of Document for details)*

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- (4) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department; “private interest” means an interest which is not a Crown or Duchy interest; and “the appropriate authority”—
- (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners, and, in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land [<sup>F3</sup>or the relevant person] ;
  - (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
  - (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and
  - (d) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

[<sup>F4</sup>(4A) In subsection (4), “relevant person”, in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.]

- (5) The preceding provisions of this section shall apply in relation to land which is subject to a right restrictive of the use thereof, being a right the benefit of which is annexed to land in which there is a Crown or Duchy interest, or (not being so annexed) belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belongs to the Duchy of Cornwall, or belongs to a government department, or is held in trust for Her Majesty for the purposes of a government department, as those provisions apply in relation to land in which there is a Crown or Duchy interest:

Provided that those provisions shall so apply with the necessary modifications, and, in particular, as if the proviso to subsection (1) of this section were omitted, and, in paragraphs (a) to (d) of the last preceding subsection, any reference to land belonging as therein mentioned were a reference to a right the benefit of which belongs, or is annexed to land belonging, as therein mentioned.

#### Textual Amendments

- F1** Words in s. 44(1) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 33(a)** (with s. 40(7); S.I. 1994/2553, **art. 2**)
- F2** Words in s. 44(3) repealed (31.10.1994) by 1994 c. 21, ss. 52, 67, Sch. 8 para. 33(b), **Sch. 11 Pt. II**
- F3** Words in s. 44(4)(a) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), **art. 1(2)**, **Sch. 5 para. 8(a)**
- F4** S. 44(4A) inserted (1.4.2017) by The Crown Estate Transfer Scheme 2017 (S.I. 2017/524), **art. 1(2)**, **Sch. 5 para. 8(b)**

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 44.