



# Opencast Coal Act 1958

1958 CHAPTER 69 6 and 7 Eliz 2

## PART III

### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

#### 40 Claims for compensation payable by [<sup>F1</sup>Corporation]

- (1) Compensation under this Act shall not be payable by [<sup>F2</sup>any person] unless a claim for it is duly made to [<sup>F2</sup>that person].
- (2) Regulations made under this section by the Minister may—
  - (a) require claims for compensation under this Act to be made in such form, and within such time, as may be prescribed by the regulations;
  - (b) require a claimant to provide such evidence in support of the claim, and such information as to the interest of the claimant in land to which the claim relates, and as to the interests of other persons therein which are known to the claimant, as may be so prescribed;
  - (c) include provisions as to professional and other fees incurred by claimants in preparing and supporting claims for compensation under this Act, requiring [<sup>F2</sup>any person], within such limits (whether as to descriptions of fees, or as to amount, or otherwise) and subject to such conditions as may be prescribed, to pay fees so incurred:

Provided that no such regulations, in so far as they are made under paragraph (c) of this subsection, shall apply to the costs of any proceedings before a court or tribunal, or shall affect any power of a court or tribunal with respect to any such costs.

- (3) Any dispute—
  - (a) as to a right to compensation from [<sup>F2</sup>any person] under this Act, or as to the amount of any such compensation, or
  - (b) as to a right to the payment of any fees by virtue of regulations made under this section, or under section thirty-six of this Act, or as to the amount of the fees payable in any case by virtue of any such regulations, or

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*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 40. (See end of Document for details)*

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- (c) as to the amount of the quarterly payments payable in accordance with subsection (2) of section thirty-five of this Act in respect of any such compensation as is mentioned in that subsection, shall be determined by [<sup>F3</sup>, in the application of this Act to England and Wales, the Upper Tribunal or, in the application of this Act to Scotland, the Lands Tribunal for Scotland].
- (4) References in this section to compensation under this Act do not include any compensation payable in accordance with any enactment applied by section thirteen or section sixteen of this Act, or any sum payable in accordance with any enactment applied by section forty-five of this Act.
- (5) In the application of this section to Scotland, any reference to costs shall be construed as a reference to expenses.

#### **Textual Amendments**

- F1** Word substituted by 1987 c. 3, s. 1(2), **Sch. 1 para. 7(c)**
- F2** Words in s. 40(1)(2)(c)(3) substituted (31.10.1994) by 1994 c. 21, s. 52, **Sch. 8 para. 30(1)(2)** (with s. 40(7); S.I. 1994/2553, **art. 2**)
- F3** Words in s. 40(3) 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. 32** (with Sch. 5)

**Changes to legislation:**

There are currently no known outstanding effects for the Opencast Coal Act 1958, Section 40.