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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Opencast Coal Act 1958, Cross Heading: Provisions as to assessment of profit or loss under s. 19. (See end of Document for details)*

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## SCHEDULES

### SIXTH SCHEDULE

#### APPLICATION OF COMPENSATION PROVISIONS TO SPECIAL CASES

##### *Provisions as to assessment of profit or loss under s. 19*

- 7 For the purposes of section nineteen of this Act, the period preceding the operative date of a compulsory rights order shall, in relation to a particular holding, be taken to be such period (either longer or shorter than four years) immediately preceding that date as may be agreed, or determined by the Lands Tribunal, to be appropriate, if it is shown that, in the case of that holding, a period of four years immediately preceding that date would be inappropriate for the purposes of that section.
- 8 (1) Where a person is entitled to compensation for any year in respect of a holding by virtue of section seventeen of this Act, then in so far as it is shown that—
- (a) reasonable opportunities were open to him (apart from the occupation and use of any part of the holding not comprised in the order) to mitigate any loss of profit from the holding by augmenting his income for that year in other ways, and
  - (b) those opportunities would not have been open to him if he had continued to be in occupation of the entirety of the holding,
- the amount of any profit assessed for that year under subsection (1) of section nineteen of this Act shall be reduced by the amount by which he has augmented his income for that year by availing himself of those opportunities, or by which he might reasonably have been expected to augment his income for that year if he had availed himself of those opportunities, as the case may be.
- (2) For the purposes of this paragraph no account shall be taken of any opportunities of which the person in question has not availed himself (notwithstanding that they were opportunities of the kind described in the preceding sub-paragraph) in so far as they would have involved his engaging (whether as an employed person or otherwise) in a substantially different occupation from that in which he was engaged during the period preceding the operative date of the order.
- (3) Paragraph (a) of subsection (8) of section nineteen of this Act, and the last preceding paragraph, shall apply for the purposes of this paragraph as they apply for the purposes of that section.
- 9 (1) Where a person is entitled to compensation for any year in respect of a holding by virtue of section seventeen of this Act, and he has received any compensation—

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- (a) by virtue of section twenty-six of this Act, in respect of any improvements carried out on land comprised in that holding, being improvements of a description specified in Part I or Part VI of the Fourth Schedule to this Act, or
- (b) by virtue of section twenty-seven of this Act, in respect of a forced sale of any property kept on or used for the purposes of that holding, or removed from that holding, as the case may be,

the amount of any profit assessed for that year under subsection (1) of section nineteen of this Act shall be reduced by the amount of the income from that compensation which is attributable to that year.

- (2) For the purposes of the preceding sub-paragraph, the income from any compensation which is attributable to any year—
  - (a) in a case where the compensation is shown to have been invested by the recipient thereof, shall be taken to be the amount of income accruing in respect of that year from the property representing the compensation, and
  - (b) in any other case, shall be taken to be an amount equal to the income which would have accrued for that year from property representing the compensation if it had been invested in securities bearing interest at the rate for the time being in force for the purposes of section thirty-five of this Act.
- (3) In this paragraph any reference to Part I or Part VI of the Fourth Schedule to this Act includes a reference to that Part as varied by any order made under section twenty-six or section twenty-eight of this Act.

10        The provisions of paragraphs 8 and 9 of this Schedule shall have effect (with the necessary modifications) in relation to any compensation payable under paragraph 4 of the Fifth Schedule to this Act, and to any compensation received by virtue of paragraph 5 or paragraph 6 of that Schedule, as those provisions have effect in relation to compensation to which a person is entitled by virtue of section seventeen of this Act, and to compensation received by virtue of section twenty-six or twenty-seven of this Act.

11        In paragraphs 7 to 9 of this Schedule, references to sections seventeen, nineteen and twenty-seven of this Act shall include references to the provisions of those sections as applied by section twenty-nine of this Act.

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